proximately $800 million in Federal, State, and local taxes.

As Federal housing assistance continues to dwindle, State and local governments are faced with greater responsibility in meeting housing needs. Mortgage bonds have proven highly successful in responding to that challenge and are one of the only home financing tools available at the State and local level. My bill would assure that this success story can continue for at least the next 5 years.

A NEED FOR DISABILITY REFORM LEGISLATION

(Mr. SHANNON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHANNON. Mr. Speaker, I was also shocked, as was the gentleman from Texas, to learn that the administration today has announced that it does not intend to support any disability reform legislation this year.

I think that there is no more pressing concern for millions of Americans and returning some semblance of humanity and decency to our disability program. All of us in this body have heard from our constituents as to the terrible cases of injustice that have taken place in the past few years.

The Ways and Means Committee reported out a substantial piece of legislation on a bipartisan basis to reform that program. If we fail to act now, despite what the administration has said, we will be doing an injustice not only to our constitutents, but to a program that millions of Americans have come to rely on.

I hope that the chairman of the Ways and Means Committee will bring that legislation to the floor as quickly as possible. I hope we can keep a strong bipartisan commitment to bringing it about, and I hope we can get the other body to act in its turn.

H.R. 4651

□ 1530

INTRODUCTION OF LEGISLATION REGARDING THE INTERCEPTION OF TELEPHONE CONVERSATIONS

(Mr. LEVINE of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVINE of California. Mr. Speaker, today I am joined by my colleagues Howard Berman and Larry Smith in introducing legislation which would make the tape recording of conversations without the consent of all parties a Federal crime.

Current Federal law regards the unauthorized interception of wire or oral conversations as a felony in most cases, punishable by a fine of $10,000 and/or 5 years in prison. However, an exception to that law states that it is not considered a felony if one party to the conversation is aware that it is being taped.

The bill we are introducing would strike the one-party-consent language from current law. The elimination of this provision would mean that all parties to a conversation being taped must have knowledge that their discussion is being recorded, or face possible criminal prosecution. Exceptions for law enforcement officials, however, would remain in effect.

Although this legislation was initially prompted as a result of the actions of Charles Wick, who secretly tape recorded over 100 telephone conversations, its results will go a long way in protecting against similar abuses of the public trust in the future.

We encourage our colleauges to join us in this effort.

HELP SAVE TAX-EXEMPT MORTGAGE REVENUE BONDS

(Mr. LEHMAN of California asked and was given permission to address the House for 1 minute.)

Mr. LEHMAN of California. Mr. Speaker, the Federal Government's tax-exempt mortgage revenue bond program was allowed to expire on December 31, 1983.

This program has successfully assisted thousands of low- and moderate-income families in the purchase of their first home. The mortgage revenue bond program also works to stimulate the homebuilding industry and to provide jobs for thousands of construction workers.

In my home State of California, the $1.45 billion worth of mortgage revenue bonds that were issued in 1983 accounted for 43,000 jobs and $4.4 billion worth of economic activity. I am sure that these bonds provide similar results in every State.

It is because of the proven effectiveness of this program that I am introducing legislation today to extend the mortgage revenue bond program until December 31, 1988.

Without an extension of this program thousands of potential home buyers will be priced out of the housing market. Scores of jobs in construction and related industries will be lost. The total economic effects of the loss of this program would be enormous.

I urge my colleagues to support efforts to reauthorize this important program as soon as possible.

IN BEHALF OF WEATHERIZATION AND EMPLOYMENT ACT

(Mrs. BYRON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BYRON. Mr. Speaker, I would like to take this time to voice my strong support for H.R. 2615, the Weatherization and Employment Act, which passed the House yesterday.

Like many of my colleagues, I have recently finished visiting various towns and communities in the District. One Federal program which received widespread support was the low income weatherization program. Garrett and Allegany County, which are on the western end of the Sixth District have significant pockets of citizens living in inadequately heated housing. Winters such as the one we are now experiencing can be fatal to many of these people due to the lack of heat. However, thanks to the low income weatherization program, we have made modest gains in protecting those on low and fixed incomes from the extremes of the weather. I know that many of my colleagues may be disappointed that a higher funding level was not approved. However, I believe that the funding level incorporated into the bill which passed still represents a continued commitment to weatherizing our Nations poorly insulated housing stock.

ELECTION OF CHAIRMAN OF COMMITTEE ON FOREIGN AFFAIRS

Mr. LONG of Louisiana. Mr. Speaker, I offer a privileged resolution (H. Res. 396) and I ask unanimous consent for its immediate consideration.

The SPEAKER. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. Res. 396

Resolved, That Dante B. Fascell, Florida, be, and he is hereby, elected chairman of the Committee on Foreign Affairs of the House of Representatives.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 203, TO ESTABLISH STATE COMMISSIONS ON TEACHER EXCELLENCE

Mr. BONIOR of Michigan, from the Committee on Rules, submitted a privileged report (Rept. No. 98-591) on the resolution (H. Res. 399) providing for the consideration of the bill (H.J. Res. 203) to establish State commissions on teacher excellence, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2465, EARTHQUAKE HAZARDS REDUCTION ACT OF 1977 AND FEDERAL FIRE PREVENTION AND CONTROL ACT OF 1974 AUTHORIZATIONS, 1984 AND 1985

Mr. BONIOR of Michigan, from the Committee on Rules, submitted a privileged report (Rept. No. 98-590) on the

resolution (H. Res. 398) providing for the consideration of the bill (H.R. 2465) to authorize appropriations for the Earthquake Hazards Reduction Act of 1977 and the Federal Fire Prevention and Control Act of 1974 for fiscal year 1984 and fiscal year 1985, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2878, LIBRARY SERVICES AND CONSTRUCTION ACT AMENDMENTS OF 1983

Mr. BONIOR of Michigan, from the Committee on Rules, submitted a privileged report (Rept. No. 98-589) on the resolution (H. Res. 397) providing for the consideration of the bill (H.R. 2878) to amend and extend the Library Services and Construction Act, which was referred to the House Calendar and ordered to be printed.

CALENDAR WEDNESDAY

The SPEAKER. This is the day of Calendar Wednesday. The Clerk will call the committees.

AGRICULTURAL PRODUCTIVITY ACT OF 1983

Mr. DE LA GARZA (when the Committee on Agriculture was called). Mr. Speaker, by direction of the Committee on Agriculture, I call up the bill (H.R. 2714) to direct the Secretary of Agriculture to take certain actions to improve the productivity of American farmers, and for other purposes, and I ask unanimous consent that general debate be limited to not more than 1 hour, to be equally divided and controlled by the gentleman from New Mexico (Mr. SKEEN) and by myself.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the title of the bill.

The SPEAKER. This bill is on the Union Calendar, and under the rule, the House automatically resolves itself into the Committee of the Whole House on the State of the Union.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2714) with Mr. PICKLE in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Texas (Mr. DE LA GARZA) will be recognized for 30 minutes and the gentleman from New Mexico (Mr. SKEEN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Chairman, I yield myself such time as I may consume.

(Mr. DE LA GARZA asked and was given permission to revise and extend his remarks.)

Mr. DE LA GARZA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to bring for consideration of the Members H.R. 2714, the Agricultural Productivity Act, of which Mr. WEAVER, our distinguished colleague from Oregon, is the prime sponsor. He was joined by some 60-odd Members, colleagues of the House, in presenting this legislation.

It was approved overwhelmingly by the Committee on Agriculture and we bring it up under this procedure now of Calendar Wednesday.

The Agricultural Productivity Act of 1983 (H.R. 2714) provides for the Department of Agriculture to conduct a research program to investigate farming systems designed to help farmers reduce production costs, conserve water and energy, and control erosion, by making use of modern organic-type agricultural technologies, and to conduct an extension program to promote the understanding of such farming systems.

In addition, it authorizes financial assistance under the ongoing agricultural conservation program to farmers who utilize intercropping systems to establish a vegetative cover that improves nitrogen fixation, rebuilds the soil, and reduces soil erosion. Intercropping is the practice of planting legumes, grasses, or other soil conserving crops between rows of crops such as corn, wheat, or soybeans.

Although American farmers are the most productive in the world, our agricultural system faces an uncertain future. Tried and true farm programs are in disarray, production costs are rising sharply, soil erosion is increasing at an alarming rate, and farm income continues to decline precipitously.

This is clearly a time of stress for American farmers and their land.

Many farmers are looking to the Department for technical advice about farming systems that will help them cut production costs, conserve water and energy, and control soil erosion.

The USDA recognizes its crucial role in providing farmers with this information, and the Agricultural Productivity Act will assist them in meeting this objective.

Mr. Chairman, this legislation is aimed, one, to coordinate within the Department of Agriculture and hopefully within the United States, the expertise of farmers, institutions, the Department of Agriculture, and hopefully other agencies of the Government that might impact on the modern organic-type agricultural technologies. And it is designed also to conduct an extension program to promote the understanding of such farming systems.

Mr. Chairman, I might mention that this is but a very small first step to bring coordination to an area that hopefully can be the salvation of American and world agriculture in the years to come.

You will not have a more important bill this year on agriculture than this bill. I would like to explain very briefly why.

The world finds itself in a very delicate and sad situation in that in a few years the population of the world will be such that even with advanced technologies and great productivity in areas such as ours, because of demands on infrastructure, transportation, refrigeration, water, housing, et cetera, and lack of income in the other countries, there is not going to be enough food to feed the people of the world.

□ 1540

They then will have to resort to the most available use of agriculture. And there the high technology, the huge machinery, that which makes us the most productive nation in the world is going to be for naught, because this is going to have to be done by poor nations, in poor areas, where every available technique of what we speak of here will need to be utilized.

So, when we might impact on the survival of millions of people, $10 million, Mr. Chairman, is such an infinitesimal sum that I am almost ashamed to say that we are asking for such a small amount for coordination of programs that may well be the survival of millions and millions of people in the undeveloped and underdeveloped countries of the world. And this is but a very small first step in a sincere effort to coordinate all related activities within the Department of Agriculture, our institutions, the private sector and with the private farms, toward the realization of such goal.

We have seen what can happen when we are short of energy, when we are short of fossil fuels. That you have to rely on tried and natural techniques of the original farmers, but which have been abandoned and lost because of our great technological advances.

Since the 1973 oil embargo, farmers production costs have spiraled steadily upward. By 1982, farm expenses exceeded farm receipts—by $400 million—for the first time in history. Government projections provide little hope for improvement in the near future. The Department of Agriculture estimates in a recent report entitled "Inputs Outlook and Situation II" that farmers will spend an unprecedented $40 billion for pesticides, fertilizer, energy and farm machinery in 1984. Further, a 1983 report by the Department of Commerce predicts that rising natural gas prices could double the cost of nitrogenous fertilizer by 1985.

While production costs have climbed, water supplies for irrigation

and Indian Ocean Islands, British Malaya-Borneo Territories, British West African Territories, French Cameroons, French Equatorial Africa, French Oceania, French Somaliland, French Togoland, French West Africa, Hong Kong, Indochina, Madagascar, Morocco (French protectorate), Netherlands Antilles, Netherlands New guinea, New Caledonia, Portuguese East Africa, Portuguese West Africa, Spanish Morocco, Spanish Guinea Territories, Surinam, Tunisia.

THE LIBRARY OF CONGRESS,
LEGISLATIVE REFERENCE SERVICE,
Washington 25, D.C., July 13, 1955.

Mr. BEN MANDEL,
Subcommittee on Internal Security,
United States Senate, Washington 25, D.C.

DEAR MR. MANDEL: I am returning herewith the study on the international treaties and their violation by the Moscow government.

I am very glad indeed that the Legislative Reference Service was able to be of assistance to the committee in the carrying out of this highly important project.

Several members of the LRS staff have reviewed, within the limits of available time, the text of the study and I do hope that the various suggestions they were able to make regarding the improvement of its contents will further strengthen the value of the study.

The intended publication undoubtedly brings together an impressive body of historical information and first-rate evidence about the continued violations of the various international agreements by Moscow. The American people as well as the peoples of the Free World will certainly benefit from having these facts placed before them.

Sincerely yours,

ERNEST S. GRIFFITH,
Director.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. METZENBAUM. Mr. President, we are still in morning business, are we?

The PRESIDING OFFICER. The Senate is still in morning business.

Mr. METZENBAUM. Does the Senator from Ohio have the right to the floor under the circumstances?

The PRESIDING OFFICER. The Senator does.

Mr. METZENBAUM. Mr. President, I rise to indicate that I came to the floor at 11 o'clock because of my understanding that the leadership wanted to proceed in connection with the pending measure. Senator BUMPERS came to the floor at 11 o'clock. I have no problem at all with the leadership taking such time as it needs, but I think at a later point in the day we may find ourselves pressed in order to bring this matter to a conclusion, to cut off the debate, to move forward. I take this means of pointing out that we are here ready, willing, and I am not sure if we are able but certainly willing to try to be able to go forward with the subject matter. I know that the luncheon hour is rapidly approaching. Many of us may have commitments at that time, and I would hope that we could get started and put the show on the road.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

COMPREHENSIVE CRIME CONTROL ACT

The PRESIDING OFFICER. The clerk will report the pending business.

The bill clerk read as follows:

A bill (S. 1762) entitled the "Comprehensive Crime Control Act of 1983."

The Senate proceeded to consider the bill.

Mr. BAKER. Mr. President, I indicated earlier, during the opening period of the Senate, that I hoped we could finish this bill today, and indeed I do. We have five other bills that are related one way or the other to this subject, which have to be dealt with, and I hope we can do them this week.

I am advised that there is more debate to ensue on the pending amendment, perhaps more negotiations on it. But I do not anticipate that there will be a tabling motion in the near future, meaning the next hour. So I urge Senators to go ahead with debate, and we will take another look at the matter in 30 or 45 minutes.

Mr. METZENBAUM. Mr. President, will the majority leader yield to me so that I may make an observation on the subject?

Mr. BAKER. I am glad to yield.

Mr. METZENBAUM. I say to the majority leader that I am the sponsor of this amendment and Senator BUMPERS is a cosponsor, as well as a number of other Senators, and we have no desire to drag out this matter. We are prefectly willing to accept any amendments that seem reasonable. So far, we have not turned down any from any group, such as the Attorney General, the CIA, the NSA, or any other legitimate arm of Government that thinks our amendment would interfere in some way with their legitimate and reasonable undertakings. So that that matter can be clarified, we are amenable to accepting amendments if they are needed by Government agencies.

With respect to the amendment itself——

Mr. BAKER. Mr. President, will the Senator permit me to yield the floor, and the Senator can gain recognition in his own right?

Mr. METZENBAUM. I want to speak to the majority leader for one moment.

Mr. BAKER. Then, I will retain the floor.

Mr. METZENBAUM. The main point I want to state to my friend, the majority leader, is that we feel strongly that there should be an up and down vote on this amendment. I think I speak for my cosponsors as well as myself in indicating that if the majority leader wishes to make a time certain for that vote, we are not opposed to doing that.

Mr. BAKER. I have not fully decided to make a tabling motion. I may do that. That is one of the matters I am going to think about in the next 30 minutes or so, while I understand there are other things to discuss on this bill. It may be that we can work out a time certain for a vote. But I think the distinguished chairman of the committee has a couple of things he wishes to say, and we have a couple of requests. I do not expect that it will take too long.

I say to the Senator from Ohio that I cannot relinquish the right to make a tabling motion at this point, but it is not certain that I will do that or somebody else will.

In the meantime, I hope Members will get on with their conversations on this subject. I hope we can have a vote on this amendment and then on the bill itself by the middle of the afternoon. I think we should go on with the matter.

Mr. BUMPERS. Mr. President, if the majority leader will yield, I say to him that if the leader and those who are opposed to this amendment wish a time certain, we are certainly in a position to agree to that. The agreement would necessarily have to embody the terms the Senator from Ohio has just described with respect to a tabling motion.

May I make another observation, for whatever it is worth: I certainly do not see this amendment or this issue in partisan terms. I regret that the Washington Post seemed to couch it in those terms this morning.

It seems to me that this is a very good amendment, one that should be supported in a bipartisan fashion. It is not designed to be a slap at Charles Wick or anybody else. As I said yesterday, that incident dramatized what I consider a big void in the law which we are trying to remedy. I hope it does not get tied up in partisanship.

Mr. BAKER. I say to the Senator that I do not think it is a Wick amendment. As a matter of fact, I am not sure that it is all bad. There may be some aspects with which I would agree. But I recall that it took us 3 years to work out that bill before, and 4 years, I think, to work out the intel-

ration by United Nations, January 1, 1942, also "subscribed" to the charter.

WARTIME ALLIANCE OF THE UNITED NATIONS

The Declaration by United Nations was signed January 1, 1942, by the United States, the United Kingdom, the Union of Soviet Socialist Republics, China, Australia, Belgium, Canada, Costa Rica, Cuba, Czechoslovakia, Dominican Republic, El Salvador, Greece, Guatemala, Haiti, Honduras, India, Luxembourg, Netherlands, New Zealand, Nicaragua, Norway, Panama, Poland, South Africa, Yugoslavia.

It was adhered to by: Mexico (June 5, 1942), Philippines (June 10, 1942), Ethiopia (July 28, 1942), Iraq (January 16, 1943), Brazil (February 8, 1943), Bolivia (April 27, 1943), Iran (September 10, 1943), Colombia (December 22, 1943), Liberia (February 26, 1944), France (December 26, 1944), Ecuador (February 7, 1945), Peru (February 11, 1945), Chile (February 12, 1945), Paraguay (February 12, 1945), Venezuela (February 16, 1945), Uruguay (February 23, 1945), Turkey (February 24, 1945), Egypt (February 27, 1945), Saudi Arabia (March 1, 1945), Lebanon (March 1, 1945), Syria (March 1, 1945).

UNITED NATIONS

The original members of the United Nations are those which participated in the United Nations Conference on International Organization at San Francisco or had previously signed the United Nations Declaration of January 1, 1942, and which signed and ratified the charter. The members are: Argentina, Australia, Belgium, Bolivia, Brazil Byelorussian Soviet Socialist Republic, Canada, Chile, China, Colombia, Costa Rica, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, France, Greece, Guatemala, Haiti, Honduras, India, Iran, Iraq, Lebanon, Liberia, Luxembourg, Mexico, Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Peru, Philippines, Poland (although Poland was not represented at San Francisco, it was agreed that it should sign the charter subsequently as an original member), Saudi Arabia, Syria, Turkey, Ukrainian Soviet Socialist Republic, Union of South Africa, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Yugoslavia.

Members subsequently admitted by the General Assembly on recommendation of the Security Council are: Afghanistan (November 19, 1946), Iceland (November 19, 1946), Sweden (November 19, 1946), Thailand (Siam) (December 16, 1946), Pakistan (September 30, 1947), Yemen (September 30, 1947), Burma (April 19.

Specialized agencies of the United Nations

The Soviet Union participates in 5 of the 10 Specialized Agencies of the United Nations now functioning.

Soviet Russia is not a member of the Food and Agriculture Organization, the International Civil Aviation Organization, the International Bank for Reconstruction and Development, or the International Monetary Fund. Soviet Russia withdrew from the World Health Organization but, since there is no provision for withdrawal, she is regarded as an inactive member.

The membership of the specialized agencies in which the Soviet Union participates and the one in which she is an inactive member follows:

ILO—International Labor Organization

Afghanistan, Albania, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Canada, Ceylon, Chile, China, Colombia, Costa Rica, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Finland, France, Federal Republic of Germany, Greece, Guatemala, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iran, Iraq, Ireland, Israel, Italy, Japan, Lebanon, Liberia, Libya, Luxembourg, Mexico, Netherlands, Netherlands Antilles and Surinam, New Zealand, Nicaragua, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Portuguese Provinces of West Africa, Portuguese Province of East Africa, of Asia and Oceania; Rumania, San Marino, Saudi Arabia, Spain, Spanish Colonies, Spanish Morocco, Sweden, Switzerland, Syria, Thailand, Tunisia, Turkey, Ukranian Soviet Socialist Republic, Union of South Africa, Union of Soviet Socialist Republics, United Kingdom, United Kingdom Overseas Colonies, Protectorates. and Territories Under Trusteeship; United States, United States possessions, Uruguay, Vatican City, Venezuela, Vietnam, Yemen, Yugoslavia.

Germany, under article XIX of the final protocol of the Universal Postal Convention, is temporarily precluded from acceding to the convention and the agreements.

ITU—International Telecommunication Union

Afghanistan, Albania, Argentina, Australia, Austria, Belgium, Belgian Congo and Territory of Ruanda-Urundi, Bolivia, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cambodia, Canada, Ceylon, Chile, China, Colombia, Costa Rica, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Finland, France, French Protectorates of Morocco and Tunisia, Overseas Territories of the French Republic and Territories administered as such; French Republic of Germany, Greece, Guatemala, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iran, Iraq, Ireland, Israel, Italy, Japan, Jordan, Korea, Laos, Lebanon, Liberia, Libya, Luxembourg, Mexico Monaco, Netherlands, Surinam, Netherlands Antilles and New Guinea; New Zealand, Nicaragua, Norway, Pakistan, Panama, Paraguay, Peru, Phillippines, Poland, Portugal, Portuguese Overseas Provinces, Rhodesia and Nyasaland, Federation of; Rumania, Saudi Arabia, Spain, Spanish Protectorate in Morocco and the totality of Spanish possessions; Sweden, Switzerland, Syria, Thailand, Turkey, Ukrainian Soviet Socialist Republic, Union of South Africa and Territory of South-West Africa, Union of Soviet Socialist Republics, United Kingdom, Colonies, Protectorates, Overseas Territories, and Territories under mandate or trusteeship of United Kingdom; United States, Territories of United States, Uruguay, Vatican City, Venezuela, Vietnam, Yemen, Yugoslavia.

Associate members: Bermuda and British Caribbean group, British East Africa, British West Africa, Malaya-British Borneo group, Trust Territory of Somaliland under Italian administration.

WMO—World Meteorological Organization

States, 60:

Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Canada, Ceylon, China, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ecuador, Egypt, Ethiopia, Finland, France, Federal Republic of Germany, Greece, Guatemala, Haiti, Hungary, Iceland, India, Indonesia, Iraq, Ireland, Israel, Italy, Japan, Lebanon, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Pakistan, Paraguay, Peru, Philippines, Poland, Portugal, Rumania, Spain, Sweden, Switzerland, Syria, Thailand, Turkey, Ukrainian Soviet Socialist Republic, Union of South Africa, United Kingdom, United Staes, Union of Soviet Socialist Republics, Uruguay, Venezuela, Vietnam, Yugoslavia.

Territories, 26:

Belgian Congo, Bermuda, British Caribbean Territories, British Central African Territories, British East African Territories

UNESCO—United Nations Educational, Scientific and Cultural Organization

Afghanistan, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Burma, Byelorussian Soviet Socialist Republic, Cambodia, Canada, Ceylon, Chile, China, Colombia, Costa Rica, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, France, Federal Republic of Germany, Greece, Guatemala, Haiti, Honduras, Hungary, India, Indonesia, Iran, Iraq, Israel, Italy, Japan, Jordan, Korea, Laos, Lebanon, Liberia, Libya, Luxembourg, Mexico, Monaco, Nepal, Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Panama, Peru, Philippines, Poland, Saudi Arabia, Spain, Sweden, Switzerland, Syria, Thailand, Turkey, Ukrainian Soviet Socialist Republic, Union of South Africa, Union of Soviet Socialist Republics, United Kingdom, United States, Uruguay, Venezuela, Vietnam, Yugoslavia.

Associate members: Gold Coast, Sierra Leone, British East Indies Territories, British West Indies Territories.

WHO—World Health Organization

Afghanistan, Albania,[1] Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Bulgaria,[1] Burma, Byelorussian Soviet Socialist Republic,[1] Cambodia, Canada, Ceylon, Chile, China, Costa Rica, Cuba, Czechoslovakia,[1] Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Finland, France, Federal Republic of Germany, Greece, Guatemala, Haiti, Honduras, Hungary,[1] Iceland, India, Indonesia, Iran, Iraq, Ireland, Israel, Italy, Japan, Jordan, Korea, Laos, Lebanon, Liberia, Libya, Luxembourg, Mexico, Monaco, Morocco (associate member), Nepal, Netherlands, New Zealand, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Poland,[1] Portugal, Federation of Rhodesia and Nyasaland (associate member), Rumania,[1] Saudi Arabia, Spain, Sweden, Switzerland, Syria, Thailand, Tunisia (associate member), Turkey, Ukrainian Soviet Socialist Republic,[1] Union of South Africa, Union of Soviet Socialist Republics,[1] United Kingdom, United States, Uruguay, Venezuela, Vietnam, Yemen, Yugoslavia.

UPU—Universal Postal Union

Afghanistan, Albania, Algeria, Argentina, Australia, Austria, Belgium, Belgian Congo, Bolivia, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cambodia, Canada, Ceylon, Chile, China, Colombia, Costa Rica, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Finland, France, French Morocco, French Overseas Territories, Germany, Greece, Guatemala, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iran, Iraq, Ireland, Israel, Italy, Japan, Jordan, Korea, Laos, Lebanon, Liberia, Libya, Luxembourg, Mexico, Netherlands, Netherlands Antilles and Surinam, New

[1]Nine governments have notified WHO of their withdrawal. The Third World Health Assembly in 1950 resolved that WHO would welcome their resumption of active membership at any time.

ligence authorization bill dealings with this same subject in part.

I want to make sure for my part that I fully understand the consequences of this matter before I make a decision on the part of the leadership here as to how to proceed.

It will come as no surprise to my two friends here who are the prime sponsors of the bill to know that the leadership on this side has asked for comments from various agencies and departments of Governments who might be affected, and I have also asked him to do that promptly, meaning within the next hour or so so that we have their views. Their views are not necessarily controlling but I feel the responsibility to hear them.

But as I said earlier, I am not determined to make the tabling motion. I reserve that option. But it may be that we may get to a vote on the merits or it may be we will have a tabling motion.

But in the meantime I think we should sort of stay loose and see where we get to with it.

I hope that by 1:30 or 2 p.m. we can be voting on something, and I think we probably can.

Mr. BUMPERS. I thank the majority leader.

Mr. BAKER. I thank my friends from Arkansas and Ohio.

AMENDMENT NO. 2690

(Purpose: To Prevent Government Officials From Secretly Taping Conversations With Others)

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes an amendment numbered 2690 to amendment numbered 2689.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Amend amendment No. 2687 by striking line 1 and all that follows and insert in lieu thereof on page 375, between lines 15 and 16, insert the following:

Part J—Taperecording by Government Officials, Sec. 1120, Section 2511 of title 18, United States Code, is amended by striking out subsection 2(c) and inserting in lieu thereof:

"(c) Under this chapter, it shall be unlawful for any person who is an official, elected official, appointed official, employee or agent of the United States not described in the following sentence to intercept a wire or oral communication, unless all parties to the communication have given prior consent to such interception. It shall not be unlawful under this chapter for a person acting under color of law who is—

"(1) an investigative or law enforcement or foreign intelligence or counterintelligence officer acting within the normal course of his or her employment; or

"(2) performing a law enforcement foreign intelligence or counterintelligence function under the direction and control of such an officer; or

"(3) acting with authorization from the Attorney General in accordance with the regulations issued by the Attorney General to intercept a wire or oral communication, where such person is a party to the communication or where one of the parties to the communication has given prior consent to such interception or where the communication constitutes a criminal or tortuous act in violation of the laws of the United States or of any State.

Mr. BUMPERS. Mr. President, I always wonder what my English teacher thinks when she hears me say, "I ask unanimous consent that further reading be dispensed with," because I was taught that one absolute "no-no" in English is never to end a sentence with a preposition. So I just trust she will forgive me one of the little indiscretions that is demanded by the great deliberative body.

Incidentally, you remember Winston Churchill said, "Ending a sentence with a preposition is something up with which I will not put."

Mr. President, this amendment that I just sent to the desk takes care of what I hope will be any concerns that the intelligence community might have or that the Attorney General might have. A suggestion has been made that if you simply exclude law enforcement activities and law enforcement officers, that term may not be broad enough to take care of intelligence and counterintelligence activities, and also certain activities that the Attorney General might want to authorize but which might not be technically within the definition of law enforcement officers.

So in order to avoid any possible problem with that, and to make a legislative record to guide any court interpreting this amendment in the future, we have added that provision. We have said not only does this amendment not apply to law enforcement officers, but we are also saying it does not apply to intelligence- and counter-intelligence-gathering activities. Nor does it apply to those people who by regulation have been ordered to do something by the Attorney General.

It seems to me that that is broad enough to drive a wagon and team through. It should be broad enough to alleviate any of the concerns that I have heard about this amendment.

I do not want to repeat most of what I said yesterday, but I do want to reemphasize that this amendment is not nearly as broad as my bill that I introduced here last week. I would feel much more comfortable with that bill, S. 2205, because it goes way beyond just Federal bureaucracy. It says that no one in this country may tape a telephone conversation without telling the other party, exempting people acting under color of law and all those people who have a legitimate excuse for taping a telephone conversation.

As I said, it is offensive to me, to think about someone gratuitously calling up someone else and leading him into a conversation while they tape it without the consent or knowledge of the party on the other end.

While this is not directed at Charles Wick—Charles Wick has repented and said he will never do it again, and I assume that he will not—I cannot help but think about how Mr. Wick would have felt if he had been on the receiving end of that treatment. What if someone called Charles Wick and led him into a conversation? He seems to be fairly well attuned politically. What if someone called Charles Wick and said, "How about you calling some of your close friends out in Ohio to attend this little fundraiser tonight and cough up $5,000 each toward this political action committee? So and so's son wants a job at USIA and if you give his son a job I believe he will kick in five grand tonight."

That is hypothetical but I can tell you there is not a Senator in this body who cannot relate to what I am saying.

I think that Charles Wick would have been insulted, offended, and outraged, as any normal human being would be if he found he had been taped without his knowledge.

One Senator has told me "I always assume I am being taped." That is fine. But I am telling you even when you assume you are being taped, you can wind up in a trap. Good Lord, Richard Nixon taped himself and implicated himself on his own tapes.

I consider what Richard Nixon did foolish, but more foolish still to say things knowing that his own tape recorder was going, even though no one else knew it. It is just bad practice. It is uncivil.

The majority leader said a while ago that this bill has been 3 or 4 years in the making and that this agreement had been reached on this bill. An agreement reached by whom? No one called me and said, "Are you all wired now to this bill so that you will not accept any amendment no matter how valid, no matter how good?"

The Judiciary Committees of the House of Representatives and the Senate have been working for years on this. I am not a member of the Judiciary Committee and I have not been privy to everything they have worked out on this bill.

The opponents have said we should wait and offer this on something else. Why wait if you have something good? I have learned around here that waiting can be a very dangerous occupation.

I practiced trial law for 18 years before I ever ran for public office. I was not engaged in trying criminal cases. I used to take a couple criminal cases each year just to stay up on what the Supreme Court had done in interpreting the Constitution as it regarded the criminal laws of the various States and the United States. I must say I found trying criminal cases

a couple times a year pretty exhilarating.

You know, trial lawyers will bore you to death with all their experiences. My brother was educated in one of those elite eastern law schools and he says that when he is around me and other trial attorneys, it just drives him up the wall. He has never practiced law. He became a corporate executive.

I know that those of us who practiced trial law can hardly wait for the other lawyer to get through with his story so we can tell one bigger.

But I always used to take the position in a trial case that when you get the whole resources of the State against one person as the defendant—and that is the way they announced the case, the State of Arkansas against Jones—it does not look like very fair odds, does it? Even just announcing the style of the case, such as the United States against Jones. That is an ominous sound.

I used to feel that if a State was going to bring all of its resources to bear against this defendant and I was representing him, I had the right to use every tactic I could think of to try to exonerate my client.

People often say, "I wonder if criminal lawyers have a feeling about whether a defendant is guilty or innocent." And any criminal lawyer who tells you he never worried about that is not being truthful with you. Of course, you always have some idea about the guilt or innocence of your client. And I never had a client that wanted to go to court and try his case; I never had one admit he was guilty unless he wanted to plea bargain or do something else. I never took a case to trial with a jury in which the defendant had told me he had done it or, where in my heart I really believed he had done it.

Mr. President, we are not accomplishing much now, so I will just tell you some interesting stories. I remember a client came into my office and he said, "Mr. Bumpers, I am charged with stealing a hydraulic lift off of a man's farm."

I said, "Well, did you steal it?" He said, "No, sir, I didn't."

I started talking to him about the case and he said, "We were all drunk and I was in the back seat of the car asleep when this happened." I said, "You didn't know they even went down to the man's farm."

"No, sir," he said.

"You didn't know they got it?"

"No, sir."

"How did you wind up being charged?" I asked.

He said, "Well, we drove back into town. We stopped at a stoplight and all of the sudden a cop with his lights blazing pulled up beside us and told us to pull over, and we did. And he searched the trunk and he found that hydraulic lift in the trunk. And that is the first I knew about it."

I said, "Well, that is a little tenuous, but you do have a defense. We will see about it."

I said, "How big a lift is it? How much does it weigh?"

He said, "About 300 pounds."

And I said, "Could one person handle it?"

"No" he said, "it would take two or three people."

And I said, "Was it attached to the tractor?" He said, "Oh, no, it was just lying out there in the field."

And it dawned on him immediately that he could not have known it was not attached to the tractor and it was lying out in the field if he had not been helping carry it.

When he said that, I said, "Son, you better go find another lawyer," and he did. And the other lawyer got him sent to the penitentiary.

Well, those are interesting cases. And trial lawyers can just tell you interesting stories forever about that. By my point is, I learned something in 18 years of trial practice about the fact that every prosecutor is not always weighing justice on the same scales that you and I do. Prosecutors are like Senators—a lot of times they want to be reelected, and they want to be able to go on television and tell you how many cases they prosecuted successfully, how many people they sent to the penitentiary, and so on. It is sort of like how many notches you have on the butt of your gun.

And I found that a lot of witnesses in these cases were not always absolutely truthful. Quite often in divorce cases, a husband would say to me, "How about me calling my wife up and recording this conversation so you will know that I am telling the truth and she is lying? She told me this morning she was going to get on the witness stand and swear that I did so-and-so. And I would like to call her on the phone and just reiterate that conversation and let you either listen in or I will tape it."

But I never did that. I have never tape recorded a conversation in my life, not even with telling somebody on the other end that I was taping it.

So, Mr. President, to go back to what I was about to say a while ago about all the negotiations that have been going on, I hope the negotiations are going on because somebody is concerned about how this might affect some legitimate interest the administration has in tape recording conversations. But I hope none of the negotiations bear on the proposition or deal with this as though it is a partisan issue, because it is not.

We have two or three cosponsors on this from the other side of the aisle. And I might say that those cosponsors are people who have a good understanding of the criminal laws of this country. But if we are going to build any kind of confidence in the people of this country, it is just a little, bitty, granular step to say that the Federal Government can do a lot of things but they cannot entrap you by telephone taping without telling you on the front end.

AMENDMENT NO. 2690, AS MODIFIED

Mr. President, I send to the desk a modification of the amendment I offered just a moment ago as substitute.

The PRESIDING OFFICER. The amendment is so modified.

The clerk will report.

The PRESIDING OFFICER. The bill clerk read as follows:

Amend amendment No. 2687 by striking line 5 and all that follows and insert in lieu therein:

"(o) Under this chapter, it shall be unlawful for any person who is an official, elected official, appointed official, employee or agent of the United States not described in the following sentence to intercept a wire or oral communication, unless all parties to the communication have given prior consent to such interception. It shall not be unlawful under this chapter for a person acting under color of law who is—

"(1) an investigative or law enforcement or foreign intelligence or counterintelligence officer acting within the normal course of his or her employment, or

"(2) performing a law enforcement, foreign intelligence or counterintelligence function under the direction and control of such an officer; or

"(3) acting with authorization from the Attorney General in accordance with the regulations issued by the Attorney General to intercept a wire or oral communication, where such person in a party to the communication or where one of the parties to the communication has given prior consent to such interception or where the communication constitutes a criminal or tortious act in violation of the laws of the United States or of any State.

Mr. BUMPERS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HUMPHREY). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I rise in opposition to the pending amendment.

First, I want to say that crime in this country has reached enormous proportions. A major FBI index offense is committed every 2 seconds. A murder is committed about every 25 minutes; a robbery every minute; a rape every 7 minutes. A burglary is committed every 9 seconds.

The administration has taken steps to focus on crime. For several years some of us have been attempting to do the same thing.

The members of the Judiciary Committee, the minority and the majority, worked out this crime package in a way that we hoped no amendments would be offered. We deleted from it several provisions that were recommended by the administration. For instance, capital punishment is controversial, so we took it out of the pack-

age. There was some objection to habeas corpus—not as much as capital punishment—so we took that out. There was some objection to the exclusionary rule so we took that out. There was some objection to Federal Torts Claims Act amendments; so we took that out.

In other words, we have brought to the Senate a package agreed upon by the majority and the minority in the Judiciary Committee. Senator BIDEN and Senator KENNEDY have worked hard on this package. A number on the Republican side have worked hard on this package. This package ought to pass. It contains many provisions that are badly needed. I will not go into detail at this time, but, for instance, sentencing reform, bail reform, forfeiture, increase in drug penalties, justice assistance, and various other matters which are important to the public.

This package has been carefully and sensibly worked out in a way we hoped would draw no amendments. Now this amendment has come about tape record of telephone conversations without the consent of all the parties.

I do not know whether this is to embarrass the President. Some people feel it is an opportunity to try to take a slap at President Reagan. Some people feel that it is a matter which is very complex, that deserves a lot of study, and feel it should not be on this bill.

I have appealed to the sponsors of this amendment to introduce a separate bill and let it be considered in the Judiciary Committee in due form. This is a matter which deserves hearings. This is a matter which Senator PAUL LAXALT, the chairman of the Criminal Law Subcommittee, has agreed to hold hearings on and to hold them promptly. I have agreed as chairman of the full committee, after the subcommittee acts, to take the matter up promptly and act on it.

We think that is reasonable. We think that is fair. But to come in here at this late date with an amendment that involves very complicated issues—that could involve the security and the intelligence process of this country and other matters—in my judgment, is completely unreasonable. I want to tell the proponents, I think it is completely unreasonable. There are alternatives. Let them offer it to some other bill later rather than jeopardize this whole crime package. We have these other bills coming up—habeas corpus, exclusionary rule, and various others I have mentioned. They can offer it to those. Why do they have to offer it to this delicately worked-out crime package that has been worked on for months and months by the Judiciary Committee in the hope that we could enact major legislation aimed at reducing crime in this country? Why come in here with this very controversial amendment at this time and delay this important crime bill?

Mr. President, I appeal to the distinguished Senator from Arkansas—appeal to his patriotism, his public spiritedness, his love for law enforcement. He has been the governor of a State. He has been responsible for the law enforcement of a State as the chief executive officer. I am sure he knows the need for this anticrime legislation. Why jeopardize it and delay it, which they have done, to try to get on their particular amendment here? I do not know whether the purpose is to embarrass the President or what the purpose is. But they have time to do this in a separate bill with hearings. Or they have time, if they insist on doing it at once, to amend other bills right after the crime package passes. Let them offer it to one of those. Do not jeopardize this entire crime package.

Mr. President, this is a very complicated subject. I contacted the Department of Justice and asked their response to this amendment. I want the distinguished Senator from Arkansas, who is kind enough to be listening to me, to listen to this response to show how complicated the issues are. This is their reply:

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice concerning the proposed amendment to 18 U.S.C. 2511(2)(c) which apparently seeks to prohibit Federal Government officials from recording wire or oral communications to which they are a party except in certain specified circumstances.

Initially, we should point out that the wiretap statute was the product of a three-year drafting effort.

Mr. President, let me comment on that: Three years spent studying and considering electronic surveillance legislation before finally acting on a bill some 15 years ago.

The Foreign Intelligence Surveillance Act was developed over a 4-year period. These statutes cover a broad range of law enforcement and intelligence activities and involve elaborate cross-references among the various sections. In short, we are dealing here with one of the most complex and sensitive areas of law enforcement and intelligence activity. We are, therefore, deeply concerned as to the severe damage which can inadvertently be done through ill-conceived and hastily drafted amendments to these very technical and closely inter-related Federal laws. Our concerns seem to be well founded as evidenced by the frequent telephone calls we received yesterday asking for instant analyses of a wiretap amendment which seemed to change every hour on the hour as grave deficiencies were recognized. The "final" amendment with which we were presented last night is an incredible example of legislative draftsmanship which raises a host of problems.

I want to deviate a minute from the letter. I spoke to the distinguished Senator from Ohio and suggested that they offer this to another bill to give time to think it over some. I also offered to have hearings. He said he wanted it on this bill. He felt this bill would be the one that would fly. But, Mr. President, this is too complicated a subject to come up here with an amendment. They have had to repeatedly amend this amendment on their own initiative.

The distinguished Senator from Ohio says, "We'll take any other amendment that you want to offer here." Why are they so insistent to pass it on this bill? Why are they so insistent to take it up right at this time? It is a serious question here of just what is behind this effort.

Mr. President, to continue with the letter:

First, it should be noted that the wiretap laws were directed at electronic eavesdropping by non-parties to communications. Obviously, such eavesdropping has the potential for being extremely privacy-intrusive as the communication in question may be between one spouse and another, between a client and an attorney, a doctor and patient, or a priest and penitent. Section 2511 of title 18 properly makes such eavesdropping a five-year federal felony. Yet the amendment before us would make recording of communications by a party thereto a five-year federal felony as well. To equate eavesdropping with recording of communications to which a person is a party is to make a leap that can only be accomplished in political hyperbole, not in reason or logic.

The amendment itself recognizes that recording of communications by a party is different from eavesdropping as it does not seek to prohibit such recording by parties to communications where the person doing the recording is a State or local government employee or a private citizen. Only when the party recording the communication is a federal employee does the activity become a five-year federal felony. This seems bizarre in the extreme.

Adding to the curious nature of this amendment is that even Federal employees may record wire communications if they do so by shorthand or speedwriting rather than by aural device. It strikes us as strange that a stenographic transcription of a telephone conversation is lawful while an electronic recording under the same circumstances is a five-year felony. We seriously question that this result would be suggested if this matter had been given the careful study which it deserves.

As to the shocking severity of punishment provided for conduct which would be lawful if undertaken by anyone other than Federal officials, this seems particularly inappropriate in view of the broad range of administrative disciplinary proceedings available to punish Federal employees. This factor as well as those discussed above would strongly indicate that if any action is to be taken in this area, it should be in title 5 of the United States Code rather than as an amendment to the wiretap laws in title 18. There are other more specific problems with this amendment. First, the effort to provide an exception for consensual monitoring by undercover law enforcement and intelligence officers and informants appears so vague as to provoke endless litigation. At the very least, defense attorneys for drug traffickers, organized crime leaders and corrupt public officials will be able to raise questions concerning any investigation involving consensual monitoring due to vague concepts in the amendment, e.g., was the law enforcement official "acting under cover of law"; was the law enforcement officer "acting within the normal course of his or her employment"; was the informant "acting under color of law"; was that informant "performing a law enforcement function"; was the informant, at the time

the recording occurred, "under the direction and control" of law enforcement officers, etc. Busy prosecutors and federal courts can be assured of expanded litigation in the years ahead given these new limitations on law enforcement activities.

Second, the effort to except out intelligence activities at the last minute—

and that is what I understand they have attempted to do.

appears to be seriously defective. Intelligence officials, like law enforcement officials, use informants and double agents, yet these informants or double agents would not be permitted to record communications to which they are a party. While title III defines "investigative or law enforcement officer", there is no comparable definition of foreign intelligence or counterintelligence officer, thus leaving uncertainty as to the officials exempted from this prohibition.

As written, the amendment permits interception by law enforcement or intelligence officers only where they are parties or have the consent of a party to the communication or the communication itself constitutes a crime or tort. No provision is made for the collection of positive intelligence, assessment or recruitment information, testing of equipment or training intelligence personnel, or collecting information on terrorist activities abroad which may not violate United States laws.

Third, despite the effort to accommodate the suggestion in our letter of yesterday concerning recording of communications related to criminal acts, the effort to except out such recordings fails to accomplish its purpose. The way the provision is written, the only federal officials who are authorized to record bomb threats, extortion demands, bribe offers, etc. are law enforcement and intelligence officers and informants. Even if this were corrected, however, the language is still much too narrow as not all comunications which we described in our last letter would "constitute a criminal or tortious act". In the case of a bomb threat, for example, the call to warn that a bomb has been placed in a public building and that it is set to explode at a particular time would not necessarily "constitute" a criminal offense, although it would be related to a criminal offense.

We believe, however, that there are other situations where a federal employee should be able to record oral communications. Assume, for example, that a female employee has been subjected to sexual harassment by a male supervisor and that her previous complaints have been dismissed because her claims were not believed. Her use of a recorder to "intercept" sexual solicitations of the supervisor would be a form of "self-defense" but would constitute a five-year federal felony under the amendment because the sexual propositions of the supervisor would not necessarily constitute a criminal or tortious act. There may also be situations where the amendment would undermine so-called "whistle-blower" laws by prohibiting consensual recording necessary to prove waste or abuse in connection with Federal programs.

In sum, Mr. Chairman, we believe very strongly that the amendment at hand is a gravely flawed product and that its approval at this time would be the height of irresponsibility. Were we to endeavor to draft such a prohibition in the form of an amendment to the very technical and closely inter-related wiretap laws, we would proceed with utmost caution and subject such a proposal to careful review not only within the Department of Justice but among all other Federal agencies as well. In addition, we would think that the public should be given an opportunity to review and comment upon such legislation.

And of course that would be done in a hearing.

Such careful review is, we believe, essential to avoid producing adverse effects far beyond those intended by the authors of the amendment. As currently written, the amendment would be a serious impediment to law enforcement and intelligence activities at a time when we should be strengthening our ability to deal with crime and terrorism.

Sincerely,

ROBERT A. MCCONNELL,
Assistant Attorney General.

Mr. President, how can anyone listen to that letter by the Justice Department and feel that we should proceed rather than take time to give study to this serious and complex subject? Why not hold a hearing, let the public be heard, let the various agencies of the Federal Government be heard and then bring in a bill that is fair and just to all concerned, taking into consideration the concerns of the public, the concerns of the Federal agencies, and the concerns of the different Members of Congress.

Mr. President, we think that would be the reasonable course to pursue. I again implore my friends—and they are my friends—the distinguished Senator from Arkansas and the distinguished Senator from Ohio, to give consideration to letting this amendment be offered to another bill when there is more time to consider it. Still better, this matter should go to the Judiciary Committee Criminal Law Subcommittee. It could hold hearings where everyone expresses themselves. Then a sound bill can be written that will meet the approval of the public, meet the approval of the Congress, and meet the approval of the executive agencies of the Government as being fair and just.

That is all we want. But you cannot say that this bill is sound when it involves such complicated matters. It has been gotten up here in haste, amended several times already, and the distinguished Senator from Ohio has offered to take other amendments if we have them. We are not in a position to list detailed exceptions to the blanket prohibition sought to be imposed by the amendment. Because of the serious implications of prohibiting activity covered by the amendment in many areas, we do not know what should be offered and what should not. We think it deserves thorough consideration. Then come to the Senate with a bill that we feel protects the public interest, protects the employees of the Federal Government, and protects all concerned.

Mr. President, I again, as I say, implore my good friends, take time. There is no rush on this.

Will you please take this under consideration? Especially consider letting a hearing be held on this matter, so that when a bill is considered, it probably will be a bill we all can support. In that event, the public interest would be well-served.

Mr. BUMPERS. Mr. President, first of all, I do not know Robert A. McConnell, who is the Assistant Attorney General. But I find it difficult to believe that a man who has no more knowledge of existing law, to say nothing of this amendment, and is a graduate of a reputable law school would write a letter such as this. I attempted to just take it sentence by sentence and dissect it so that my colleagues will understand that there is not a single point in this letter, not one. I will come back to that in just a moment.

My distinguished colleague from South Carolina, one of the most revered men in this body, the chairman of one of the most important committees in the Senate, which deals with the criminal laws among other issues, is an honorable and noble man. He feels very strongly about the amendment, and he has expressed that very well. But, as Anthony said at Caesar's funeral, "There is a lot of misinformation here."

A slap at the President? Does this mean that the President wants to go out and campaign on the proposition that he was violently opposed to a law which, in effect, stops Peeping Toms? That is as good an analogy as I can think of to somebody calling another person on the phone and, without that person's knowledge, taping the conversation. Only one party knows about it. That is what happens with window peepers. Only one party knows the window peeping is going on. That is an offense, as it should be.

A slap at the President? I must say that, based on my observation in this Chamber in the past hour, I think I am beginning to understand why we are on hold. I think we are on hold because the administration has begun to turn the dogs loose, and everybody is calling up here and saying, "You've got to be careful. This is an immensely complicated proposition."

Mr. McConnell, the Assistant Attorney General, has gone to the trouble of composing over three single-spaced pages of what he obviously thought was compelling logic on why we ought to wait, why we ought to hold hearings, why this is an immensely complex subject.

How many times—oh, Lord, how many times—in the last 9 years have I heard this: "We need to hold hearings on that. This is immensely complicated. Don't put it on this bill. Wait and put it on something else."

If it is logical that we ought not disturb or offer one single word change in this bill because it has been carefully crafted, then I can just go to Arkansas and make some speeches and see my constituents and let the committees bring to the floor these carefully worked-out bills which are not to be disturbed or amended in any way.

I am very pleased at the work of the distinguished Senator from South Carolina and the distinguished Senator from Massachusetts. Everybody knows that when Senator THURMOND and Senator KENNEDY agree on something, it must be good. I am going to vote for the bill, whether this amendment passes or not, and I applaud them for their efforts. That has nothing to do with the merits of this amendment. But, no bill is ever so sacred that it cannot be improved. None.

I hear that so often in this Chamber: "We have worked so hard." And they have. I applaud that. I am not denigrating that. I am simply saying that that is not what the people of Arkansas elected this Senator to do, to take a dive every time somebody says, "This is a very carefully crafted bill." If we are going to do that, we should have electronic voting, so we do not have to come to the floor. We can simply sit in the office and push a button.

I do not believe that the President of the United States is going to run this fall on the proposition that he believes in indiscriminate taping of telephone conversations. But apparently there is this great perception that this is a slap at the President, when it has nothing to do with the President. If I were going to slap the President, I would have done it a long time ago, when he did not fire Charles Wick. He should have fired him in a New York minute.

Is the amendment this complicated? What is complicated about saying that when you are talking to somebody on the telephone, if you are going to report what they are saying, you should at least have the decency to say, "Do you mind if I record this conversation," or, "I am recording this conversation"? Is that complicated? I do not think it is.

Mr. McConnell says that it could affect intelligence-gathering operations. No. 1, existing law says that you are exempt from the prohibition against telephone taping if you act under color of law. What is color of law? Their "ain't" no end to what that means. It does not have anything to do with the criminal laws of the country. It can be an IRS investigation into a civil case.

If Charles Wick had been charged with taping a telephone conversation, unquestionably would have used as his defense that he was operating under color of law and thereby exempt under section 2511(c). And it probably would have been successful, because the law right now exempts anybody operating under color of law.

However, just to satisfy the intelligence community, we have clarified existing law by saying that intelligence and counterintelligence-gathering activities are specifically exempt from this amendment. We have even gone further. We have said that the Attorney General can authorize people—whether it is just a regulation or a violation of the criminal laws or whatever—to telephone tap. So that part of Mr. McConnell's letter is absolutely a red herring, specious.

As to that part of his letter that says you could not even let a secretary who has been improperly solicited for sexual purposes under threat of losing her job or anything else—why, I am amazed that the Assistant Attorney General, Robert A. McConnell, says you cannot do that. You can do that right now, under existing law, and our amendment does not change it; because one of the aspects of existing law is "or anytime there is a criminal or tortious act in violation of the laws of the United States."

It is a tort, an unlawful tort for someone to solicit a sexual favor and say that "If it is not honored, you may lose your job," or even hint at it. That is a tort covered by existing law. It may also be a crime. We do not change that.

Here is the Assistant Attorney General of the United States who obviously has not read the law. It is one of the most peculiar letters I have ever seen in my life.

But you know the administration—not just this one, all administrations—expect all the Senators on their side of the aisle to jump under the desk when they send a letter such as this over here saying it is immensely complex.

His first argument is "No provision is made for the collection of positive intelligence assessment or recruitment information."

We make a very precise exception for it. He is wrong in that paragraph.

Second, he says the way the provision is written, the only Federal officials who are authorized to record bomb threats, extortion demands, bribe offers, are law enforcement officers, intelligence officers, or informants. Wrong again. Existing law allows you to record a bomb threat, an extortion attempt, any criminal violation of the law or any civil violation of the law. That is the law now. Strike that paragraph.

Then he gets down to sexual solicitations which I have just covered for you.

Finally, he says this amendment could lead to endless litigation. I will tell you one thing. If you do not adopt this amendment there will be more litigation because the present civil cause of action is obviously not a sufficient deterrent to wrongful conduct such as Mr. Wick's.

Mr. President, this world is exploding with electronic technology. I occasionally like to go see one of those James Bond-type movies just to see all that electronic equipment. Some of these people are technical experts. And I love to see all that equipment that James Bond uses. They have directional microphones where they can pick up a casual conversation a half a block away.

When I was a child all telephone conversations went through wires on poles. Today no long-distance call goes through a wire. It is communicated by satellite or by microwave. They go through the air. We can intercept millions and millions of conversations a day. We have the ability to do it.

And here we are with a little, old amendment that does not do anything except bring a little decency to the American people by assuring them that some two-bit bureaucrat is not going to record a telephone conversation with them, because he happens to be paranoid or is worried about his job, without telling people that he is doing it. Complicated?

Mr. McConnell goes so far in his letter to refer to wiretaps. He calls this a wiretap bill. This is not really a wiretapping bill.

A wiretap is where a third party goes in and taps a conversation between two parties, neither of whom knows it is going on.

And we have a pretty stout wiretapping law in this country. It is so stout we say you have to have a court order to wiretap, and I think that is a good idea, and I bet you the Senator from South Carolina thinks that is a good idea.

It is an invasion of privacy. Is it any less an invasion of privacy when there are only two parties and one knows the other's privacy is being invaded but the one whose privacy is being invaded does not know it? Does that make it less harmful? Does that make it more appropriate, more acceptable?

Mr. President, 13 of the 50 States already have this law. If they had waited around for the perfect vehicle to put it on, if they had said this is too complicated for us, do not tinker with it, you might interfere with something or other, do you think those 13 States would have the law? The truth of the matter is this amendment should be much, much broader. It should go way beyond the Federal bureaucracy. It should cover every man, woman, and child in the United States, with those exceptions, the CIA, the NSA, the DIA, the Federal Bureau of Investigation, and so forth. We have more intelligence gathering operations than any other nation on Earth and they are all exempt from this amendment.

As a matter of fact we are clarifying the law for them. They would be subject to litigation under existing law. We make it an ironclad certainty that they cannot litigate whatever they decide to do.

I was reading the paper this morning, and Amin Gemayel, the President of Lebanon, was quoted on the front page of the Washington Post as saying if the United States pulls its marines out of Lebanon, guess what? You guessed it—those dirty Russians will move right in. If you really want to get someone's attention in this country, just tell them the Russians are coming.

You know what Amin Gemayel is telling us, is that he is President of

that country but yet he represents a minority. He represents the Maronite Christians who are a fairly big minority but they are a minority. And the Moslems are saying that unless Gemayel is willing to share power with the majority, there will be no peace in Lebanon. That certainly is not difficult for me to understand. And Gemayel is saying the constitution gives the Maronite Christians the right to a majority, and I do not know that because at one time they were a majority when their constitution was written. But I am not at all sure that the Moslems are not asking for control, they are simply saying "You have to be fairer with us than you have been."

And he does not want to do that. I do not know what the administration's position is, whether they want him to or not. But I do know this is a very clever tactic on his part. Tell those people in the United States that if they pull out, the Russians are almost certain to take over Lebanon. So you must leave the marines here.

And I ask everyone within earshot how many times have you heard that argument in the last 30 years?

The difference between statesmen and other people is that statesmen really try to think things through, people who just do not accept those arguments at face value but who ask if they have merit, analyze it, and act on it. But if it is just another red herring to try to keep 1,500 marines not standing tall but buried 15 feet underground, then you should act on that.

As a former marine, I can tell you those 1,500 marines are so frustrated. I can tell you I was not trained to dig a hole 15 feet in the ground and sit there while people took potshots at me and particularly to guard a civilian airport. That is another subject. We will get back to that later on, I am quite sure.

But here is a simple amendment that the Justice Department has tried to torpedo with the most outrageous, specious, fallacious reasons I have ever seen in my life. Occasionally those letters that come over from the administration or one of the agencies have some embryo of reason to it. This has none.

Mr. THURMOND. Mr. President, will the Senator yield for a question?

Mr. BUMPERS. I yield the floor.

Mr. THURMOND. Mr. President, yesterday, the distinguished Senator from Ohio made this statement:

> We have said to the Justice Department: "If you don't think that this bill is adequate or does it in the manner you think it should be done, tell us what amendments you want, and we will accept those amendments."

He further said:

> I said: "Tell me what your problems are, and we will amend the amendment."
>
> I will say it publicly: If Justice does not like the way some particular provision of this measure is drafted and if they think in some way it will interfere with law enforcement activities, we will change it. They will not have to persuade us. They will not have to twist our arms. Not one of the proponents of this amendment wants to interfere in any way with the law enforcement activities of the United States, and we have provided language on that very point. If there is something else they want, we will provide that.
>
> If it passes the Senate and they find that it needs to be changed at a later point, we will agree and urge the House to change it over there.

Then further on in the RECORD from yesterday, the distinguished Senator from Ohio said:

> I said previously that should the Department of Justice or anyone in any of our law enforcement agencies indicate that there is anything in the draft of this legislation that interferes with their normal activities or extraordinary activities, we are prepared to support an amendment.

Now, I understand the distinguished Senator from Ohio repeated that today. Does the Senator feel the same way, that this amendment could be improved?

Mr. BUMPERS. Mr. President, I would not presume to speak for the Senator from Ohio. I will say this: Obviously, the Senator from Ohio did not intend to say that he would accept any amendment or an amendment that would negate the effect of our amendment. I feel quite sure what he was saying was that if there is some legitimate interest in telephone tapping by law enforcement or other administrative agencies that makes any sense, they ought to let us know.

That is the kind of amendment I feel sure he was talking about. However, he can speak for himself.

I would say to the Senator from Ohio, who is now on the floor, that I would not accept just any old amendment that was sent over here.

Mr. THURMOND. The Senator would not object to consideration of some reasonable amendment?

Mr. BUMPERS. I think the Senator from Ohio was saying that, but I will let him speak for himself.

Mr. THURMOND. I would like to ask the Senator from Arkansas if he feels some reasonable amendment could be considered.

Mr. BUMPERS. Certainly.

Mr. THURMOND. Then I would like to ask the question: Why did the Senator from Arkansas offer a second-degree amendment that now precludes all amendments? I would like to ask the Parliamentarian: What is the situation now about this amendment? Can it be amended?

The PRESIDING OFFICER. The amendment is a second-degree amendment and is not subject to amendment.

Mr. THURMOND. The Parliamentarian says it is not subject to amendment, and that is what I was told. The distinguished Senator from Arkansas offered a second-degree amendment. He has placed this thing in concrete. You say, "Bring forth your amendments," and you have blocked it so we cannot offer any amendment.

Mr. METZENBAUM. Will the Senator from South Carolina yield for a question?

Mr. THURMOND. I am glad to yield.

Mr. BUMPERS. Mr. President, if I may, I think the Senator from South Carolina is entitled to an answer. I suggest that if the Senator or anybody from the administration has an amendment, they ought to bring it over here and let us look at it. As I say, I cannot speak for the Senator from Ohio, but I can tell you I would not accept just any old amendment anybody decided to bring up here. But I certainly would cooperate in the utmost good faith with the Senator from South Carolina on any amendment that would improve the amendment, and I know the Senator from South Carolina would not offer one that did not.

Mr. THURMOND. Mr. President, I would like to ask the Parliamentarian again: Is any amendment in order to this amendment now being considered?

The PRESIDING OFFICER. The amendment is not subject to amendment.

Mr. THURMOND. You heard the Presiding Officer. He says the amendment is not subject to any amendment. You cannot amend it any further. You have taken a course of action to block any amendments. How can you amend it? And why did you say yesterday and today that if you have any amendments, bring them in, and then a course of action was followed to block amendments?

Mr. METZENBAUM. Will the Senator from South Carolina yield for a question?

Mr. THURMOND. I am glad to yield.

Mr. METZENBAUM. The Senator correctly quoted me on the floor of the Senate and I want to repeat it. If you have an amendment, we know how to handle the parliamentary procedures around here in order to achieve an appropriate objective. Does the Senator from South Carolina have an amendment that the Justice Department feels should be considered on this bill?

Mr. THURMOND. Well, if we had one we could not offer it. You heard the Presiding Officer say that no amendment is in order. The distinguished Senator from Arkansas offered a second-degree amendment and your amendment cannot be amended any further.

Mr. METZENBAUM. I say to the Senator from South Carolina, who has been around here longer than any of us, that he well knows that that which the parties want to do can be achieved under the parliamentary procedures if there are not objections. So I say to him that if the Justice Department or the NSA or the CIA or whatever has an amendment, if he is good enough to acquaint us with it then I am certain we will work out the parliamentary procedure.

But it is certainly understandable that the Senator from Arkansas would offer an amendment to keep our amendment clean of having any amendments that would just be confusing or would do violence to the original objectives of the proposals. It is a procedure used oftentimes around here and certainly I think the Senator from Arkansas was well within his rights. If there is such an amendment that the Justice Department has or the NSA or the CIA or the Attorney General, then acquaint us with the language of that amendment. If it does not do violence to the original objectives of the proposals, then I am certain we would be more than willing to consider it and more than willing to proceed to see to it that it is adopted as a part of the bill.

Mr. THURMOND. Mr. President, I believe the Senator from Ohio said today:

> I say to the majority leader that I am the sponsor of this amendment and Senator Bumpers is a cosponsor, as well as a number of other Senators, and we have no desire to drag out the matter. We are perfectly willing to accept any amendments that seem reasonable. So far, we have not turned down any from any group, such as the Attorney General, the CIA, the NSA, or any other legitimate arm of Government that thinks our amendment would interfere in some way with their legitimate or reasonable undertakings.

Again, I ask the Chair: If the CIA came to me with an amendment now and said this amendment is needed to protect the security of this country, or the NSA came to us, or the FBI, or any Government agency, I ask the Presiding Officer is any amendment in order?

The PRESIDING OFFICER (Mr. COCHRAN). The amendment of the Senator from Arkansas is an amendment in the second degree and is not amendable.

Mr. THURMOND. As I understand it, no further amendments are in order here, is that correct? That was the ruling of the previous Parliamentarian.

The PRESIDING OFFICER. Under the present circumstances, no further amendments are in order at this time.

Mr. THURMOND. There is your answer. No further amendments are in order. And even though you have a defect in the amendment, you put yourself in a position now where it cannot be corrected.

Mr. METZENBAUM. Mr. President, I point out to my good friend from South Carolina that, indeed, it can be corrected. If you have an amendment, let us see it. Do not make speeches about it, let us see the amendment.

Mr. THURMOND. How can I offer it when the Presiding Officer said that no amendment——

Mr. METZENBAUM. We can offer it on your behalf. By unanimous consent, it can get into the RECORD. So that is a specious argument that you are making. We can offer it. We will get it in. Let us see the amendment. If you have some merit on your side, if the CIA or the Justice Department or the Attorney General or the NSA has an amendment that has merit, come forward with it. Do not tell us about the parliamentary procedures. Those can be worked out.

Mr. THURMOND. Mr. President, he says if it is meritorious. He will decide whether I can offer it. He will determine if I can offer an amendment.

You have it so that I cannot offer an amendment.

I will ask the Presiding Officer again if any amendments are in order.

The PRESIDING OFFICER. Under the present circumstances, no further amendments are in order.

Mr. THURMOND. There is your answer.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I would like to talk a little bit more about this measure, not too long, and indicate that I am speaking for myself and those who are sponsors for this measure when I say we are prepared to vote on the amendment.

Before doing so, I want to be certain that all the cosponsors of this amendment are identified properly. During the debate yesterday, I was proceeding to add additional ones and found that some of them did not show up in the RECORD. Therefore, I ask unanimous consent that the RECORD reflect the fact that the following are cosponsors of this amendment: Myself and Senators BUMPERS, LEAHY, RIEGLE, RUDMAN, RANDOLPH, HUDDLESTON, BYRD, CRANSTON, EXON, HART, FORD, MELCHER, LAUTENBERG, LEVIN, DIXON, SARBANES, DODD, and MATSUNAGA.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, we do not get excited about this measure because it is not anything to excite anyone. We are talking about personal privacy, which is a long-cherished American value. Every time there is a government intrusion on our privacy, conservatives and liberals, Democrats and Republicans, and the general populous view that kind of invasion or intrusion on our privacy with outrage. Therefore, when we learn about Government officials—and I say officials in the plural—who secretly tape record our conversations, we find that we all feel that it violates the fundamental precepts of privacy and violates the public trust in our Government.

We all know that this Nation and the world gave tremendous attention to this entire issue of the taping of conversations during the Watergate investigation. What is so hard to understand and hard to believe is that after that tragic episode, it is absolutely unbelievable that Government officers would repeat former President Nixon's mistakes. Yet they do.

As I said, public officials is in the plural. I do not know how many public officials have taped. We do know that Mr. Wick is not the only one. The Director of the Peace Corps also has admitted that she secretly taped conversations with one of her employees.

Yet from Watergate to Charlie Wick to other instances of taping, Congress has failed to address this problem. What we have here is a very simple amendment which has already been amended to accommodate the concerns of the intelligence agencies and which has been amended in the first instance to take care of the concerns of the Attorney General. We have attempted to accommodate all of the concerns of the Justice Department and other agencies. They wanted informers to be able to secretly tape and we amended it to achieve that objective, to make that possible. Anyone who is working under the supervision of a law enforcement officer would not be prohibited from taping under the provisions of this amendment.

Concerns were expressed about foreign intelligence and counterintelligence officers, so we included an exemption for them.

Concerns were raised about officials who needed to tape to protect the security of other Government officers and about investigators who looked for violations of civil law. So we have included an exemption for such officers as the Attorney General authorizes to tape secretly.

I have said it before and I will say it again, if there is some proposal that one of the agencies of our Government feels is imperative to be included in this measure, I am certain that we will have no difficulty in accommodating those concerns with an appropriate amendment.

Frankly, we cannot accommodate those concerns until we know what the concerns are and what language they think they will need. But we have not been hard to reach. We have not been difficult to talk with. We have not indicated a standoffish attitude. We have said over and over again, "If you have some problem with one of the law enforcement agencies or one of the information-gathering agencies of our Government, let us know what language you need, and we will see to it that it gets into our amendment."

Frankly, it is heartening to note that Mr. Wick, who is the one that caused this matter to become a cause celebre, has himself come to recognize the error of his own ways. He has publicly conceded that his conduct was insensitive and unfair.

So this is not a Wick amendment. This is an amendment to do that which Congress should have done a good many years ago.

I think many of us thought it probably was unlawful to tape a conversation. We find that it is not, so we are attempting to correct that situation.

Many States have already recognized that taping by government officials is wrong. This proposal does not

go as far as Senator BUMPERS' amendment would go, and I support Senator BUMPERS' amendment, to make it illegal across the country for all people to tape. This only applies to ourselves and to other people who are agents of the Federal Government or who are officials of the Federal Government.

States with laws restricting taping of a similar nature for their executives or employees or agents or officials are Arkansas, California, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Maryland, Massachusetts, Michigan, Montana, North Carolina, Ohio, Oklahoma, Pennsylvania, Tennessee, Washington, and Wyoming.

Secret taping should be illegal across the country under Federal law. Not only are we on the floor saying that, but editorials in newspapers across the country have spoken to this specific issue. The Wall Street Journal characterized the tapings of Mr. Wick as being "stupid" on January 9, 1984.

Newsweek said:

If the Watergate scandal taught politicians anything, it was the danger of making secret tape recordings and the peril of trying to deny an embarrassing truth. Both lessons were apparently lost on Charles Z. Wick, California entrepreneur and longtime friend of Ronald Reagan, who runs from ruckus to ruckus as head of the United States Information Agency.

A New York Times editorial, written by William Safire, explains why the secret tapings were so offensive. It begins by asking:

What is so bad about secretly recording what people say on the telephone? Doesn't taping serve the cause of accuracy? Doesn't everybody in government and top business management do it?

The editorial then answers itself.

When you engage in conversation with another person, you and he make the assumption that nobody is eavesdropping. Both of you speak more freely on that assumption; if you convey a confidence to the other party, and he betrays that confidence by blabbing to others, you have the protection of saying he didn't get it quite right, or of denying it outright. When a third party says "Joe says you said I was a jerk," you can say "I said you were a loveable jerk," or "you know Joe—he's trying to drive a wedge between us."

But when Joe tapes your conversation, he makes it possible for the whole world to eavesdrop. He owns your voice, and you are left with the feeling of the aborigine who fears that a picture taken of him steals his soul. Without your permission, he can play your performance to his friends or your enemies, to his advantage or your chagrin.

You are stripped of the protection of your privacy.

He states that:

Secret taping is wrong—unethical—because it erodes trust and engenders suspicion, thereby reducing human communication. If you suspect your friend puts a recorder in his pocket, you are not likely to confide in him. His motives may not be blackmail; he may desire to have your voice as his souvenir, or your technical expertise for his instant replay, or your views for history—but a pure motive does not ameliorate the ethical lapse in the action.

The editorial concludes:

No, not everybody in Washington does it. The people who do it routinely are the CIA, which operates in a different ethical world. Unfortunately, the no-holds-barred standards of the CIA—lie detectors, antipublication oaths and now secret taping—are being applied throughout the Reagan administration. Our spooks used to be the ethical exception; now they set the ethical standard.

Accuracy is a value, but trust is the greater value. Do we want to live in a society where everything we say—between partners, friends, husbands and wives—may be held against us? That is why secret taping, now so easy, is so wrong. That is why the President of the United States, in failing to promptly and vigorously condemn this ethical lapse by the head of the U.S. Agency that asks for the world's trust, should be ashamed of putting personal friendship before his duty.

The Washington Post ran three editorials attacking these "abusive and offensive" and "offensive" tapings. The third summarized the Post's view:

That was a good and gracious apology that Charles Wick, Director of the U. S. Information Agency, offered on Monday for his phone-tapping adventures. Mr. Wick now concedes that the taping of some of his phone calls, without notice to the callers, was an unfair practice, an invasion of his callers' privacy and something that "can lead to other, more dangerous practices." Though his purpose was simply "to extend the reach of my own memory, never to threaten or humiliate others," He said, "It has become quite clear to me that in trying to be meticulous about my own managerial tasks, I frequently ignored the potential impact on others."

Mr. Wick also acknowledged responding to early press queries about the tapings with "misinformation," on account of "my anxiety and faulty recollection," and he offered his regrets for that, too.

We wish Mr. Wick had made such a statement the minute the story about his phone taping broke. The impression he gave then was that he was doubly insensitive: To the offense he had committed against his callers and to his obligation to the President and the public to make a prompt, full explanation. But he has now remedied that. And the fact that he needs prompting to do the right thing is less important than that he now appears to be doing it—in private apologies to his callers, in public statements, and in testimony to the several official inquiries into his phone habits.

It remains for President Reagan to find occasion to make it perfectly clear that he too understands why no one in his administration should abuse the confidence that every phone caller has the right to expect and tape a call with a caller who has not been duly warned.

It is not only the New York Times and the Washington Post. The San Francisco Examiner, on January 9, 1984, editorialized:

The U.S. Information Agency Chief does not display enough good sense to be in charge of a costly program to present an honest and favorable image of the Nation in the rest of the world. His promotion of "Project Truth" is not likely to earn more than a smirk. Wick should offer his resignation and save the President the discomforture of requiring it.

The St. Louis Post-Dispatch stated on January 10, 1984, "Mr. Reagan Says It's Okay."

[From the St. Louis Post-Dispatch, Jan. 10, 1984]

MR. REAGAN SAYS IT'S OKAY

So now the president of the United States has exonerated a high government official who has been caught surreptitiously taping private telephone conversations. The official, Charles Z. Wick, director of the United States Information Agency, is not "a dishonorable man in any way," said President Reagan, adding that Mr. Wick would not be fired. Mr. Wick's unauthorized taping of conversations, the president said, was only intended to provide suggestions for improving USIA programs.

Mr. Reagan's opinion of secretly recording conversations is at variance not only with the views of members of his official family but also with those of the American Bar Association and the laws of a dozen states, which make the practice a crime. James Baker, White House chief of staff and one of Mr. Wick's victims, says the tapings were "unacceptable." Presidential counselor Edwin Meese describes such tapings as "unethical."

The ABA's committee on professional responsibility has declared that secret recordings by attorneys of telephone conversations is unethical. Mr. Wick is a lawyer. Two congressional committees and a state's attorney in Florida, where such recordings are illegal and where Mr. Wick did some of his tapings, are investigating the case.

Of Mr. Wick's own ethical standards this much can be said. Not only did he surreptitiously record hundreds of conversations, stopping only after his own staff warned him that the practice was improper, but he later denied having done so. That he should continue to head an agency whose mission is to transmit America's values to the world is an outrage.

Mr. Reagan's blindness to ethics and propriety, however, is even more appalling. Would he be so tolerant if he knew that people with whom he assumed he was speaking privately had covertly and routinely taped his conversations to be passed around their offices?

The St. Louis Post-Dispatch, in a January 28, 1984, editorial, called for stronger safeguards as follows:

[From the St. Louis Post-Dispatch, Jan. 28, 1984]

STRONGER SAFEGUARDS FOR PRIVACY

Having concluded that U.S. Information Agency Director Charles Z. Wick violated federal regulations against the secret recording of telephone conversations, the General Services Administration is proposing additional rules to protect the privacy of such communications. Existing regulations prohibit the taping of phone conversations "without prior consent of all parties involved," Mr. Wick, the agency declared in a formal report, not only failed to "implement properly the regulations" but continued his clandestine taping of telephone calls until Dec. 23, 1983—although he had been informed in 1981 that he was acting improperly.

Although Mr. Wick attempted to deny his actions, he later issued an apology to those whose calls he recorded. And President Reagan, who sees no impropriety in the conduct of the man who heads the agency charged with spreading America's values in the world, has praised Mr. Wick and has said he will stay on at his job. So it would appear that the best that can be hoped for to come out of this sorry episode are stronger safeguards against such covert tapings.

The GSA recommends that federal agencies provide transcripts to all parties on the

line when a call is being taped; that they publish procedures for recording telephone conversations; that they obtain GSA approval before purchasing or installing recording devices and that they keep logs of all recorded calls. Such rules alone will not deter someone determined to tape his telephone conversations. But they would make federal government policy on the subject even more explicit; and they would make it more difficult for a president to wink jovially at such transgressions against privacy.

This is a stronger safeguard against such tapings. We should not need to have legislation, but obviously, we do. Mr. President, the condition of the floor at the moment is the following: There is an amendment offered, and an amendment in the second degree. The yeas and nays have not been asked for, which we will do in due course. But if the Justice Department or anyone else speaking for one of the agencies of our Government has a proposal to make, a suggestion to make, then we, who are the sponsors of the amendment in the first degree and the second degree, are still in a position to do it without needing any consent. If there is such a proposal, we would be very happy to hear of it before we go forward with a vote on this measure.

Mr. GOLDWATER. Mr. President.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. GOLDWATER. Mr. President, I can certainly understand the feelings of my friend from Ohio with regard to this taping that was done illegally. I can understand his desire to make it totally illegal. But I think he is into a subject that will take more than just discussion here on the floor to understand what we are talking about and the ramifications of it.

I happen to be chairman of the Intelligence Committee and wiretapping is a subject that we discuss quite often. I oppose this amendment. The intelligence agencies were not told of this amendment until yesterday afternoon. No one has had time to consider carefully what effect this amendment has on national security. The General Counsel of some of these agencies have said they do not think they can continue doing their job under this legislation. They have asked for some short period of time, a week, to see how this affects their job and how they could help draft legislation to stop the abuses—abuses, I must say, that we all are concerned about. I am asking, Mr. President, or suggesting that we have some time to have this considered either by the Judiciary Committee or by the Intelligence Oversight Committee, whatever the Senate might choose, to make sure that we do not harm national security. We do not know yet what language we need. I suggest we have a week or maybe more and I think we can come up with something.

Mr. President, I am against taping people's conversations but can we not wait a short time to see how this bill affects NSA, CIA, and the FBI, not to mention the other 16 members of the intelligence family working in this community? The NSA General Counsel was given a copy of this amendment only this morning, Mr. President. We cannot expect them to make these suggestions that the Senator from Ohio insists on in a few hours. If the offer of the Senator from Ohio to accommodate national security is genuine, then he will give these agencies more than just a few hours to provide amendments.

Now, the thing that can very well happen to this amendment is that it will be tabled and that will be the end of it, where if the Senator from Ohio would like to go through that motion and then submit it for proper hearing before the committees chosen to hear it, I think we can come up with something.

Mr. President, just to give you a rough idea of what we are into, the Justice Department has said:

Initially we should point out that the wiretap statute was the product of a 3-year drafting effort. The Foreign Intelligence Surveillance Act was developed over a 4-year period. These statutes covered a broad range of law enforcement and intelligence activities and involved elaborate cross-references among the various sections. In short, we are dealing here with one of the most complex and sensitive areas of law enforcement and intelligence activity. We are, therefore, deeply concerned as to the severe damage which can inadvertently be done through ill-conceived and hastily-drafted amendments to these very, very technical and closely interrelated Federal laws. Our concern seemed to be well founded as evidenced by the frequent telephone calls we received yesterday asking for instant analysis of a wiretap amendment which seemed to change every hour on the hour as grave deficiencies were recognized. The final amendment with which we were presented last night is an incredible example of legislative draftsmanship which raises a host of problems.

That comes from the Department of Justice, which permission is required now for any member of intelligence or any member of the Government to wiretap.

But let me mention a few things that the Senator from Ohio is completely overlooking. For example, is it not related to wiretapping for a television man to hold a microphone in back of you without you knowing it? Is it not similar to wiretapping if a man does the same thing with radio, has a mircophone that you cannot see or that he hides from you, not necessarily purposely but you are saying things that you do not know are recorded? Every single Member of this Senate has had that happen to him and then has read in the paper or heard something over the air and said, "My golly, when did I say that?" I think that probably is a second cousin to wiretapping.

Now, let me go a step further. I happen to be an amateur radio operator. I am privy to listen to every band in the spectrum from one kilohertz to the gigahertz, and I do. I listen around to see what is going on in this country, what is going on in other countries in the world. Is that not the same as wiretapping? We are not supposed as amateur radio operators to disclose what we talk about, but we can listen, listen all day. So we are not doing anything to try to control that, and I do not want to do anything to control that.

We get into the matter of satellites. I think I described quite briefly the other day how it is possible in the reception of television programs from a satellite, if you know what to do, to listen to telephone conversations. They do not come over loud and clear, I have to tell you, but you can do it. There is nothing in this legislation that provides any preventive action in that field.

It is possible—and I know many Members of this body have looked into these things—for me to buy a miniature olive that is a tansmitter, put it in a martini and have a martini with you and 200 feet away everything you say is heard. Now, not only that, you can do similar things with toothpicks, with fountain pens, and with flashlights.

So I point these things out to my good friend from Ohio to demonstrate that merely adding this amendment is not going to stop all of this. There are catalogs that are completely filled with devices that allow the owner to listen to practically anything. You can listen through walls. That is not prevented by law. You can listen through floors. That is not prevented by law. You can listen through wired circuits of homes. You have got to cover that if you are going to stop everything.

I might point out, Mr. President, that we seem to be the only country in the world that has a great fear and a great apprehension about the use of wiretap or any other device to pick up information for the purposes of intelligence.

Now, I am completely with my friend from Ohio in his attempts to work out some way that we can prevent what has just happened, a man, whether he is a member of government or not, bugging somebody's phone and recording it. I do not think that should be allowed. It is not allowed actually under the laws that we have. It is a very difficult thing to police. It is a very difficult thing to control. That is why I would suggest, knowing the earnestness of my friend from Ohio, that he rethink this amendment, resubmit it in the form of legislation and also in the form that would cover these things that I have been mentioning. I have only touched the surface. It is absolutely amazing how I can find out what you are saying without you knowing it, and you can do the same to me. It takes a little money, but if you have a little money you can do most anything.

Now, another thing that concerns me about this—and this is after the amendment had been changed last evening—I read from the further

printed amendment No. 2689—it mentions Government employee "unless prior consent to such interception has been given." It provides an exception for investigative or law enforcement officers. It provides an exception for others acting under direction and control of such investigative or law enforcement officers.

But, Mr. President, it does not mention the National Security Agency. It does not mention the FBI. It does not mention the CIA. I think if we are going to have an amendment like this, it should specifically eliminate those 19 different agencies of our Government that are charged with collecting intelligence as to what our potential enemies might be doing.

I can relate to this group that all over the various buildings owned by the Soviet Union in this town are antenna systems that do nothing all day long but intercept telephone calls, whether they are personal, private, business, or what. The city of San Francisco has a Soviet office out there that has even a greater abundance of wiretapping equipment.

Now, I do not say that to justify any individual just willy-nilly putting a tap on my phone or your phone or the phone of the Senator from Ohio. But I do think that when we get down to the fine grind and find that you have to be an officer or a person acting under direction and control of law enforcement officers, that in itself is going to eliminate the 19 members of our family, particularly the National Security Agency. I cannot get into what they do; it is so highly classified, but I can tell you as a person who has been in communications for over 60 years it is unbelievable. It is unbelievable what they can do, and yet this amendment can very well stop the National Security Agency from operating.

I know the author says it cannot because he has altered the language to satisfy himself, that it does give these employees a chance to do it. But it does not give the agency the opportunity to do it.

Mr. President, the English abhor wiretapping. They have pretty good control over it—not all the way. Israel, a country which I think has one of the two best intelligence-gathering systems in the world, wiretaps all over the place. I do not think they allow individuals to do it.

I do not want to allow individuals to do it, and I would go along with my friend from Ohio in trying to help him draft legislation of a comprehensive nature that could put the stop to what we have just gone through with a member of our Government wiretapping for no good reason, just for wiretap purposes. I guess he enjoys it. I can give him some good television shows at night, if he has nothing to do, but they are not worth listening to, so I cannot help him much.

Mr. President, I hope that the Senator from Ohio will pull down this amendment. If he does not pull it down, I agree with the parliamentarian—I think it is illegal, and I think it is perfectly proper to entertain a motion to table this amendment. Even if it is tabled, I would say let us go ahead and sit down and have hearings on this subject, so that we can come up with something that will say to an American citizen, "No, no, no," and with a penalty that will back it up. Today, the "no, no, no," really does not mean much. But this legislation is not going to help, and it is going to harm.

Mr. President, that is all I have to say on the subject, and I yield the floor.

Mr. METZENBAUM. Mr. President, I very much appreciate the comments of my good friend from Arizona, for whom I have the highest respect. I want to make certain that we are on the same wavelength, and I am not talking about a taping wavelength but, rather, our communication with each other.

First, I want to be certain that the Senator from Arizona understands that this is applicable only to Government employees or Government officials, whether appointed or elected, or Government agencies. So, with respect to anything that would have to do with a radio or TV station having a microphone near us, unless they happen to be a Government employee, they would not be barred by this legislation, nor would they be affected in any way.

With respect to the exemption, I am not certain that the distinguished Senator from Arizona saw this morning's modification to a second degree amendment offered by the Senator from Arkansas, with respect to which I totally agree. But we provided another exemption. I will read the total exemptions:

It shall not be lawful under this chapter for a person acting under color of law who is—

(1) an investigative or law enforcement or foreign intelligence or counterintelligence officer acting within the normal course of his or her employment, or

(2) performing a law enforcement, foreign intelligence or counterintelligence function under the direction and control of such an officer, or

(3) acting with authorization from the Attorney General in accordance with the regulations issued by the Attorney General.

It is the last one that I believe would adequately protect the NSA or any other agency, because the Attorney General would be in a position to provide by regulation that the proper activities of the NSA, or whomever else he might designate, would be permissible.

What we are calling for is to make that which is done in the way of taping previously authorized by the Attorney General. We do not want to stop any agency of Government from using taping, if the Attorney General says it may be done.

As I said on the floor of the Senate, if somebody has an amendment they think we should include, we certainly are willing to consider it and in all probability will accept it. So far, we have had no difficulty in accepting any amendments that have been proposed by the various Government agencies.

With respect to the other point my good friend makes—that is, to take down the amendment and go through the hearing process and not be able to proceed—I do not believe that would be adequate.

First of all, we anticipate having a short session. Second, the Judiciary Committee has a heavy agenda. Third, in the milieu in which we operate, you need a vehicle that has a "go" signal on it to be called to the floor and then to be brought up for action in the other house. The crime package is such a vehicle.

If the sponsors of this measure really feel they need additional time and want to lay aside the entire crime package till a time certain, whether it be 5 days, a week, 2 weeks, or whatever, leaving our amendment pending as is, I certainly would have no objection to doing that. But absent that—and I have not heard any indication that they desire to move in that direction—we are prepared to go to a vote.

We have discussed with the majority leader—and I say this to my friend from Arizona—that the condition of the floor is such that if a tabling motion is made, it does not preclude our coming back with additional amendments, with slight modifications, at a subsequent point. We have indicated that we would like this matter brought to an up and down vote. We are prepared to vote on it. If we win, fine. If we lose, we will take our lumps and walk away, and not offer additional amendments. I have made that clear to the majority leader, Senator BUMPERS has made that clear to the majority leader, and I hope the Senator from Arizona will not see fit to offer a tabling motion, but he is certainly within his rights. But we would be within our rights to come back with additional amendments thereafter.

If we have an up and down vote, we would consider the matter concluded upon the adoption or defeat of the amendment.

Mr. GOLDWATER. I thank the Senator for his comments. What he says only lends credence to the idea that we have to have some hearings in this matter.

As chairman of the Intelligence Committee, I would be very happy to hold hearings on this matter, and I think the Senator will find our committee adequately prepared to go into this matter very thoroughly.

The National Security Agency, in reaction to the last part of the amendment, paragraph 3, said that that does not help them.

I think it is far more important, for the purposes of the Senator from Ohio, to work on legislation that

makes this act illegal—not just among Government employees.

I can recall when Franklin Roosevelt, before the days of tapes, had a big air ventilator behind his desk, big enough for his secretary to sit on another floor, at a lower level, and studiously write down everything that went on. That was not electronic. It probably was better than electronic. That type of thing also has to be considered.

I do not like to feel that only Government employees are acting in the capacity that this unfortunate gentleman, Mr. Wick, did the other day.

I think it goes on far more out in the industrial field, the corporate field, and the labor field. The Senator has been a very successful businessman and, as I have said before, I have been a businessman also and my constant efforts were to find out something about what my opposition was doing that enabled him to stay up with me or ahead of me. Most of the time it was word of mouth. Nowadays I have a hunch that electronic surveillance can be employed. Electronic surveillance is used thoughout America and it is either legal or it is illegal.

I like to think that the Senator would reintroduce this amendment in the form of legislation so that we could make a proper determination as to just what fields we want to cover, and I agree with the Senator. What I consider private is my own business and I do not want the world knowing it.

But I notice now we have a Freedom of Information Act and in the morning's paper is a personal letter that I wrote the head of the CIA as a friend over 2 years ago. I call that the same thing as wiretapping.

Everyone in this town is a snooper going around with long noses like a bloodhound just sniffing and whether they sniff anything or not they come up with a story.

I would like to stop all of this foolishness. I do not think we ever can, but I think we can make great strides in putting an end to the use of electronic devices, telephones, et cetera, for spy purposes or intelligence purposes gotten for your own effect.

I have nothing more to say on this, Mr. President. I think the time is approaching when we are supposed, pardon me, to go into secret session, and again a secret session in this Chamber is a laugh because the best way to get bunch up there all excited is say it is going to be secret and before we get back to this room from where we are going, it will be in the news all over this country. So we are not just talking about the bloodhounds that we have in here or the bloodhounds who work in certain offices, we are talking about the whole problem of secrecy in the Federal Government. I want to see us get a little bit of it.

I yield the floor.

The PRESIDING OFFICER (Mr. TRIBLE). The Senator from Idaho is recognized.

THE HISTORY OF ARMS CONTROL TREATY VIOLATIONS

Mr. McCLURE. Mr. President, arms control treaty violations are not new. During the 1930's there was wholesale violation of existing arms control treaties:

There was violation of the Washington and London Naval Treaties by Japan and Italy.

There was German violation of the Treaty of Versailles.

There was Italian use of chemical weapons in Ethiopia.

The United States reacted to these violations the way some would have us react to the Soviet violations today—we continued to abide by the Washington and London Naval Treaties after the Japanese had publically abrogated them.

During the 1930's Winston Churchill publically challenged the British Government to admit that the Germans were violating existing treaties. It refused to for a long time.

In November 1934 in the House of Commons, Winston Churchill stated, and I quote from the words of the great statesman:

According to the Treaty of Versailles, the German Government are not allowed to build any military aircraft or organize any military air force . . . What was meant for a safeguard for the Allies has in fact become only a cloak or a mask for a potential aggressor. With any other country the facts about its air development would have been stated quite promptly . . . In fact, the League collects these figures . . . With any other country this would make no difficulty, but it is just because Germany is under this special disability. I understand how it has arisen. It has not been considered etiquette, or at any rate the Government has shrunk hitherto from stating this would make no difficulty, but it is just because the fact which they know well—I am sure they know about German rearmament, and very naturally, because, if the Foreign Secretary had said that there was this or that they were doing contrary to the Treaty, he would immediately have had to make good his statement, or perhaps stand by his statement, that he was charging a great Power with a breach of the Treaty, and I can understand that until certain disclosures which have been made on the Continent had been made, it was necessary for the Government to proceed with great caution in this respect.

But the time has come when what was meant to be a protection for others must no longer be a cloak or mask for Germany. The time has come when the mystery surrounding the German rearmament must be cleared up. We must know where we are. This House naturally in these matters leaves the main responsibility to the Executive, and that is quite right, but at the same time, it cannot divest itself of responsibility for the safety of the country, and it must satisfy itself that proper measures are being taken.

The same type of intelligence collection problems we now face were cited as reasons for not taking actions when violations were discovered. Winston Churchill ridiculed this:

I do not know how the Admiralty came to be without information that even battleships, contrary to the Treaty, were being laid down before the end of 1934. We always believed before the War that battleships could never be laid down without our knowledge. The Germans were entitled to build 10,000-ton ships according to the Treaty, but they, by a concealment which the Admiralty were utterly unable to penetrate, converted these into 26,000 ton ships.

If Sir Winston had lived to read some of the intelligence reports produced on the SS-X-25 over the last 10 months he might have smiled.

Mr. President, I ask unanimous consent that a list of Soviet SALT violations and Soviet violations of other arms control treaties be printed in the RECORD. I also ask unanimous consent that the President's Report to the Congress on Soviet Non-Compliance With Arms Control Agreements be printed in the RECORD. Finally, I ask unanimous consent that my unclassified analysis of the recent Soviet accusations of alleged U.S. SALT violations be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SOVIET VIOLATIONS OF 1979 SALT II TREATY

1. SS-18 rapid reload and refire capability.
2. Covert deployment of 100 to 200 SS-16 mobile ICBMs at Plesetsk test range.
3. AS-3 Kangaroo long range Air-to-Surface Missile on 100 TU-95 Bear bombers.
4. Deployment of long range ASMs on Backfire bombers.
5. Production of 32 to 36 Backfire bombers per year.
6. Arctic deployment of Backfire bombers.
7. Almost total encryption (95 to 100%) of telemetry:
   ICBM: SS-18 Mod X, PL-4 (SS-X-24), PL-5 (SS-X-25).
   SLCM: SS-NX-19,
   SLBM: SS-NX-20.
   IRBM/ICBM: SS-20.
8. Two new type ICBMs in development testing SS-X-24, SS-X-25.
9. Increased and large scale strategic camouflage, concealment, and deception.
10. Testing of a new heavy SLBM-SS-NX-23.
11. Soviet admission of exceeding 820 and 1200 MIRV missile launcher ceilings, and 1320 MIRV/ALCM ceilings, counting those launchers and bombers under construction.
12. Soviet failure to reduce strategic nuclear delivery vehicles to 2400 and to 2250 ceilings.

SOVIET VIOLATIONS OF THE 1972 SALT I ANTI-BALLISTIC MISSILE (ABM) TREATY

1. Soviet SAM testing in ABM mode—SAM-5, SAM-10, SAM-12.
2. Deployment of 6 ABM Battle-Management radars in interior of the U.S.S.R. not facing outward—Abalakovo.
3. ABM camouflage and concealment.
4. Falsification of ABM deactivation.
5. Creation of new ABM test range without prior notification.
6. Development of a rapidly deployable, mobile ABM system.
7. Testing of a rapid refire ABM capability.
8. Deployment of a nationwide ABM defense, using 6 ABM Battle-Management radars, SAMs 5, 10, 12, and mobile ABM-3.
9. Deployment of more than 100 ABM launchers around Moscow.

SOVIET VIOLATIONS AND CIRCUMVENTIONS OF THE 1972 SALT I INTERIM AGREEMENT ON OFFENSIVE NUCLEAR WEAPONS

1. Deployment of the heavy SS-19 ICBM as the replacement for the light SS-11 ICBM.
2. Failure to deactivate old ICBMs on time, and continuous falsification of official deactivation reports.
3. Bringing back ICBM equipment to deactivated ICBM complexes.
4. Keeping 18 SS-9 ICBMs at an ICBM test range illegally operational.
5. Soviet deployment of "IIIX" silos with a configuration too similar to a missile launch silo.
6. Increased use of deliberate camouflage, concealment and deception:
Encryption of missile telemetry.
Camouflage of ICBM testing, production, and deployment.
Concealment of SLBM submarine construction, berthing, dummy submarines, and construction of berthing tunnels.
7. Constructing over 68 strategic submarines, when only 62 were allowed.
8. Violation of Brezhnev's pledge not to build mobile ICBMs.
9. Deploying SS-11 ICBMs at SS-4 Medium Range Ballistic Missile (MRBM) sites for covert soft launch.
10. Keeping about 1,300 to several thousand old ICBMs stockpiled for both covert soft launch and rapid reload of silos for refire.

SOVIET VIOLATIONS OF THE 1962 KENNEDY-KHRUSHCHEV CUBA AGREEMENT

1. Soviet offensive capabilities deployed to Cuba:
Combat Brigade.
Golf and Echo Class nuclear missile-equipped submarines.
Cienfuegos strategic submarine base with nuclear warhead storage facility.
Nuclear delivery—capable aircraft: MIG 23/27, Floggers Bear TU-95 D, F, with operable bombbays.
Military communications center.
2. Use of Cuba as a revolutionary base to export subversion and aggression.
Training terrorist and revolutionary forces.
Equipment supply to revolutionary forces.
DGI 4th largest intelligence service in world.
3. Probably biological and Chemical Warfare facility.

SOVIET VIOLATIONS OF THE 1974 THRESHOLD NUCLEAR WEAPONS TEST BAN TREATY (TTBT)

Over 15 Soviet underground nuclear weapons tests with estimated yield over the 150 kiloton threshold limit. Some of these tests were at over 300 kilotons, and we have 95% confidence that they were violations. Over 50 Soviet treaty violations since 1917, mostly of non-aggression pacts, according to 1962 Defense Department book entitled, "Soviet Treaty Violations," an official U.S. Government source.

SOVIET VIOLATIONS OF THE 1925 CHEMICAL WARFARE PROTOCOL: SOUTHEAST ASIA, SOUTHWEST ASIA

Soviet violations of the 1972 Biological Warfare Convention: Southeast Asia, Southwest Asia, Sverdlovsk 1979 explosion, 8 facilities expanded, Cuba BW/CW facility, International terrorists with BW/CW capabilities.

Over 30 unambiguous Soviet ventings of nuclear debris outside the borders of the USSR, in violation of the 1963 Limited Test Ban Treaty.

Over 14 documented cases of Soviet SALT negotiating deception, 120 cases of forgeries, active measures, propaganda campaigns.

THE PRESIDENT'S REPORT TO THE CONGRESS ON SOVIET NONCOMPLIANCE WITH ARMS CONTROL AGREEMENTS

The following is the text of a message to the Congress transmitting the President's Report on Soviet Noncompliance with Arms Control Agreements as required by the FY 1984 Arms Control and Disarmament Act:

To the Congress of the United States:

If the concept of arms control is to have meaning and credibility as a contribution to global or regional stability, it is essential that all parties to agreements comply with them. Because I seek genuine arms control, I am committed to ensuring that existing agreements are observed. In 1982 increasing concerns about Soviet noncompliance with arms control agreements led me to establish a senior group within the Administration to examine verification and compliance issues. For its part the Congress, in the FY 1984 Arms Control and Disarmament Act, asked me to report to it on compliance. I am herewith enclosing a Report to the Congress on Soviet Noncompliance with Arms Control Agreements.

After a careful review of many months, and numerous diplomatic exchanges with the Soviet Union, the Administration has determined that with regard to seven initial issues analyzed, violations and probable violations have occurred with respect to a number of Soviet legal obligations and political commitments in the arms control field.

The United States Government has determined that the Soviet Union is violating the Geneva Protocol on Chemical Weapons, the Biological Weapons Convention, the Helsinki Final Act, and two provisions of SALT II: telemetry encryption and a rule concerning ICBM modernization. In addition, we have determined that the Soviet Union has almost certainly violated the ABM Treaty, probably violated the SALT II limit on new types, probably violated the SS-16 deployment prohibition of SALT II, and is likely to have violated the nuclear testing yield limit of the Threshold Test Ban Treaty.

Soviet noncompliance is a serious matter. It calls into question important security benefits from arms control, and could create new security risks. It undermines the confidence essential to an effective arms control process in the future. It increases doubts about the reliability of the U.S.S.R. as a negotiating partner, and thus damages the chances for establishing a more constructive U.S.-Soviet relationship.

The United States will continue to press its compliance concerns with the Soviet Union through diplomatic channels, and insist upon explanations, clarifications, and corrective actions. At the same time, the United States is continuing to carry out its own obligations and commitments under relevant agreements. For the future, the United States is seeking to negotiate new arms control agreements that reduce the risk of war, enhance the security of the United States and its Allies, and contain effective verification and compliance provisions.

We should recognize, however, that ensuring compliance with arms control agreements remains a serious problem. Better verification and compliance provisions and better treaty drafting will help, and we are working toward this in ongoing negotiations. It is fundamentally important, however, that the Soviets take a constructive attitude toward compliance.

The Executive and Legislative branches of our government have long had a shared interest in supporting the arms control process.

Finding effective ways to ensure compliance is central to that process. I look forward to continued close cooperation with the Congress as we seek to move forward in negotiating genuine and enduring arms control agreements.

Sincerely,

RONALD REAGAN.

The Fact Sheet provided to the Congress with the classified report is quoted below:

FACTSHEET

The President's Report to the Congress on Soviet Noncompliance with Arms Control Agreements

Commitment to genuine arms control requires that all parties comply with agreements. Over the last several years the U.S.S.R. has taken a number of actions that have prompted renewed concern about an expanding pattern of Soviet violations or possible violations of arms control agreements. Because of the critical importance of compliance with arms control agreements, about one year ago the President established an Interagency Arms Control Verification Committee, chaired by his Assistant for National Security Affairs, to address verification and compliance issues. In addition, many members of Congress expressed their serious concerns, and the Congress mandated in the FY 84 Arms Control and Disarmament Act Authorization that "The President shall prepare and transmit to the Congress a report of the compliance or noncompliance of the Soviet Union with existing arms control agreements to which the Soviet union is a Party."

The President's Report to Congress covers seven different matters of serious concern regarding Soviet compliance: chemical, biological, and toxin weapons, the notification of military exercises, a large new Soviet radar being deployed in the Soviet interior, encryption of data needed to verify arms control provisions, the testing of a second new intercontinental ballistic missile (ICBM), the deployment status of an existing Soviet ICBM, and the yields of underground nuclear tests. Additional issues of concern are under active study.

Soviet violations of arms control agreements could create new security risks. Such violations deprive us of the security benefits of arms control directly because of the military consequences of known violations, and indirectly by inducing suspicion about the existence of undetected violations that might have additional military consequences.

We have discussed with the Soviets all of the activities covered in the report, but the Soviets have not been willing to meet our basic concerns which we raised in the Standing Consultative Commission in Geneva and in several diplomatic demarches. Nor have they met our requests to cease these activities. We will continue to pursue these issues.

THE FINDINGS

The Report examines the evidence concerning Soviet compliance with: the 1972 Biological Weapons Convention (BWC) and the 1925 Geneva Protocol and customary international law, the 1975 Helsinki Final Act, the 1972 ABM Treaty, the unratified SALT II Treaty, and the unratified Threshold Test Ban Treaty (TTBT) signed in 1974. Preparation of the Report entailed a comprehensive review of the legal obligations, political commitments under existing arms control agreements, and documented interpretations of specific obligations, analyses of all the evidence available on applicable Soviet actions, and a review of the diplomatic exchanges on compliance issues between the U.S. and the Soviet Union.

directs the Sergeant-at-Arms to clear the galleries, close all doors of the Chamber, and exclude from the Chamber and the immediate corridors all employees and officials of the Senate who under the rule are not eligible to attend the closed session and who are not sworn to secrecy.

(At 2 p.m. the doors of the Chamber were closed.)

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I see no other Senator seeking recognition in closed session. I move the Senate now return to open session.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

(Thereupon, at 3:40 p.m., the doors of the Senate Chamber were opened, and the Senate returned to legislative session.)

Mr. BAKER. Mr. President, I believe it is necessary to gain a little time for us to restore the Senate to open condition. In order to provide for that time, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPREHENSIVE CRIME CONTROL ACT

The Senate continued with the consideration of S. 1762.

Mr. METZENBAUM. Mr. President, I want to repeat, in the presence of more Members who are on the floor now than there were before, that some mention has been made today, certainly by the distinguished Senator from Arizona, that some portions of the security community have some concern about the language of this proposal. I said earlier, and repeated time and time again, that I would be prepared to accept an amendment, either at this point or accept an amendment if the bill should be passed with this amendment in it, in order to accommodate that portion of the security community.

We were advised by the distinguished chairman of the Intelligence Committee that if we had more time with respect to this measure, perhaps the security community would be in a position to work out appropriate language which we could then accept.

I say to the manager of the bill and to the majority leader, as well as the chairman of the Intelligence Committee, that if it be their disposition to set the bill aside for a day, 2 days, or a week, and leave the matter pending as it is, this Senator has no objection to that, because this Senator is particularly concerned and particularly willing to cooperate in every way possible with all the Members of this body, as well as those in the security community, who have indicated their concern.

Mr. GOLDWATER. Mr. President, I want to answer that by saying that I cannot speak for the chairman of the Judiciary Committee or the majority leader, but I assure my friend that if that is what he wants to do, I am not sure we can do it in a week. But we can get a much, much better bill than his amendment. His amendment right now, in my opinion, is dangerous. But knowing what he wants to do, I think we can work out something that is not going to put a peril on the intelligence family.

Mr. METZENBAUM. I thank the chairman of the Intelligence Committee.

I am prepared to vote, but I wanted to make it clear that if there are others in this body who feel that it would be better to set this measure aside, for whatever period of time, with our amendment pending as it is, I would have no objection to that arrangement. Absent that, I am prepared to go forward with the measure.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Mr. SPECTER assumed the chair.)

Mr. BAKER. Mr. President, may I report to our colleagues that since the open session began there have been efforts to see if we could find some manner of accommodation for the conflict we now have before us. We explored the possibility of postponing consideration of this matter—that is to say, the Metzenbaum and Bumpers amendments—until tomorrow or taking up something else in the interim and, for a variety of reasons, none of the proposals appear practical.

I am inclined to think the best thing to do is to keep on going and to do the best we can with this bill and these amendments.

I am not now going to propound a unanimous-consent request, but let me describe one, Mr. President, that I hope Member might consider. If it is well received, I will propound this or a similar unanimous-consent request in a few minutes.

I would like to propose that we get on with a vote, up-or-down, not tabling, on the issue. But, in order to do that, since there are two amendments, a second-degree and a first-degree amendment, it would be necessary to combine the two and it would require unanimous consent, I guess, to modify the first-degree amendment to embrace the provisions of the second-degree amendment and to provide that no other amendments on this subject would be in order, and then to provide 20 minutes of debate, equally divided, to be under the control of the distinguished Senator from Ohio, who is the first and principal sponsor, and the distinguished chairman of the committee. At the end of that 20 minutes, we would vote on the amendment, as modified.

Now, that is the proposal I would make if it meets with general approval. I do not now make it.

I yield to the Senator from Ohio, if he wishes to comment.

Mr. METZENBAUM. Mr. President, I would be very happy to comment and state that that would be very satisfactory to me. I assume that we are talking about when we vote it would be an up or down vote.

Mr. BAKER. Yes, it would.

Mr. METZENBAUM. That would be agreeable to me, and I feel certain I am speaking for the Senator from Arkansas, as well as our cosponsors. I am not in a position to speak for the minority leader.

Mr. BYRD. Has the Senator accepted the second-degree amendment as a modification?

Mr. METZENBAUM. The second-degree amendment would be accepted as a modification to the first-degree amendment.

Mr. BYRD. The Senator could do that without unanimous consent.

Mr. METZENBAUM. I understand that. I wanted to be certain that was in the unanimous-consent agreement in order to preclude any second-degree amendment.

Mr. BYRD. Yes, that would require unanimous consent. If the Senator wanted to modify his amendment, he could do that.

Mr. President, I understand no action has been taken on either amendment. I guess the distinguished Senator from Ohio could modify his amendment to incorporate the second-degree amendment without any action or unanimous consent.

Mr. METZENBAUM. The Senator from Ohio is aware of that but the amendment would be open for another second-degree amendment. If we follow this procedure with the unanimous-consent request that the majority leader indicated he might make, then we would resolve that issue at the same time. I would prefer to proceed in that manner.

Mr. BAKER. Mr. President, I am perfectly willing to frame the request so the second-degree amendment is included in the first degree amendment and no other amendment on the first-degree amendment or on this subject would be in order.

Mr. METZENBAUM. I am prepared to agree to that.

Mr. BAKER. Mr. President, I now make that request. Let me restate the request for the consideration of Senators.

Mr. President, I ask unanimous consent that the first-degree amendment of the Senator from Ohio be modified

as he has suggested he is agreeable to by inclusion of the language of the second-degree Bumpers amendment, and that no other amendments to the first-degree amendment, as modified, be in order, and that no other amendments on this subject be in order to this bill.

I further ask unanimous consent that there now be 20 minutes of debate on this amendment, as modified, to be equally divided and controlled by the distinguished chairman of the Judiciary Committee, Mr. THURMOND, and the distinguished Senator from Ohio, the principal sponsor of the amendment, Mr. METZENBAUM, and at the end of the 20 minutes so provided that a vote occur on the amendment and that no tabling motion be in order.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, so that we can permit the minority leader to complete his clearance process, I will leave the request pending. I now suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LAXALT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAXALT. Mr. President, I wish the record to indicate and my colleagues to know that in respect of the so-called Metzenbaum amendment, I have been in touch with the distinguished Senator from Ohio since the inception of this amendment. He has been more than considerate and more than cooperative. As I have indicated to him, however, while the amendment seems simplistic and would appear to achieve the results that he wants to achieve, that is not what I am hearing. Many of my colleagues here indicate that this is a very sensitive, very important piece of legislation.

I suppose the fact that this particular area has not been touched historically should tell us something in itself, because it is the type of activity that seemingly would be met very quickly by appropriate Federal legislation.

The Department of Justice and our defense agencies have uniformly expressed strong reservations to this chairman of the subcommittee about proceeding forward now with this amendment. They feel that there may be unanswered questions, pitfalls of the type that none of us can reasonably anticipate now.

What I am saying essentially to Senator BIDEN and to Senator THURMOND and to the Chair and certainly, our leader (Mr. BAKER), is that as far as this chairman is concerned, I think a far better result would be for us to defer a vote at this time on this particular amendment.

I assure all concerned that I shall promptly convene, as chairman of the subcommittee, any and all hearings that are appropriate to this amendment may be fully heard and explored. We shall invite members of the public, members of the agencies, and whoever among our colleagues wish to be heard.

It is on that basis respectfully, Mr. President, that I ask the distinguished Senator from Ohio to reconsider and perhaps withdraw this amendment so we can consider it fully during the course of the next few weeks and months.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE INCLUSION OF THE NATIONAL INSTITUTE OF JUSTICE AND THE BUREAU OF JUSTICE STATISTIC WITHIN THE NEW OFFICE OF JUSTICE ASSISTANCE

Mr. THURMOND. Mr. President, in response to some concern voiced on the floor yesterday regarding the restructuring of the Department of Justice under the justice assistance provisions of title VI, I would like to send to the desk language from the Committee on the Judiciary report accompanying this bill regarding the autonomy and integrity of the National Institute of Justice and the Bureau of Justice Statistics. I believe this language will clarify the position of the committee and lay to rest the concerns raised yesterday.

The excerpt follows:

The Committee feels that by placing the National Institute of Justice and the Bureau of Justice Statistics within the new structure of the Office of Justice Assistance, the overall coordination and resulting productivity of that branch of the Department of Justice will be enhanced. While the Committee recognizes the great value of research and statistics in this area and their productive results, current economic limitations on available resources and past experiences with bureaucratic complexity dictate the need for a move efficient and focused approach.

The Committee therefore concluded that while the day-to-day operations, research, and statistical responsibilities would remain with the individual bureau directors, the Assistant Attorney General could better coordinate the efforts of these branches of the Office. Because the directors will have practical experience in their fields and the bill clearly defines the duties and responsibilities of the various bureaus within the Office, the National Institute of Justice and the Bureau of Justice Statistics will be free to pursue their academic and statistical endeavors unfettered by any bureaucratic or political constraints. It is the Committee's belief that this new structure will reduce red tape and increase the overall productivity of the Office of Justice Assistance, without reducing the scientific integrity or autonomy of the Bureaus involved.

Mr. DOMENICI. Mr. President, S. 1726 is a compilation of 12 criminal reform titles that have been under consideration for more than 10 years, and furthermore, this is the third time the Senate has passed some of these measures. With only one of two exceptions the reforms are part of the President's crime package. It is my hope that the House will act quickly and take up this very much needed legislation because the urgent need for this legislation is chronicled in our Nation's newspapers and televised on the nightly news. The pendulum is swinging from concern for criminals to concern for the law-abiding citizens who suffer, directly or indirectly, from crime. Among criminals, the rumor on the street is that crime pays. Leniency in our system is an added incentive. It is incumbent upon this Congress to make the criminal pay. S. 1762 is a step in that direction.

The violence is appalling, its prevalence is astounding, its impact on our citizens is unacceptable. The spectrum of victims is far reaching. However, the elderly, because of their vulnerability, are victimized more than any other segment of our society.

Instead of controlling crime, crime is controlling us. The potential of being the victim of a senseless crime has had its impact. Every 24 seconds somewhere in the United States a violent crime is committed. Every 6 minutes a woman is raped, every 55 seconds a robbery occurs and every 23 minutes a murder is committed. We organize our lifestyles so as to avoid the terror. We have deadbolt locks, window bars, guns, doormen, security systems, and guard dogs. We don't go out at night. We avoid certain streets. We are afraid, and with good reason. Criminals have drastically reduced the personal freedom and security that Americans used to know.

Even in the smallest communities the day is gone when the family could leave the door unlocked when no one is home. Many of our citizens lock their doors when they are at home, and set the alarm system when they leave. People today feel isolation and powerlessness. They feel vulnerable and entrapped. They don't know what to do. It is clear they want more stringent laws, longer sentences and more actual time served by criminals. They are depending upon Congress. S. 1762 gives muscle tone to our flabby criminal system in several important areas. I am going to vote for this bill and urge my colleagues to do likewise.

The bill is composed of 12 very necessary titles which together form a coherent approach to crime: Bail; sentencing; forfeiture; insanity defense; drug penalties; justice assistance; surplus Federal property for corrections purposes; labor racketeering; crime amendments; miscellaneous nonviolent offenses; and procedural amendments. The bill includes provisions that would allow judges to deny bail if

the defendant is considered dangerous to the community, creates a Federal sentencing procedure through the creation of a new system of sentencing guidelines, fixed sentence abolition of parole and limited credit for good time, and an increase in penalties for major drug offenses.

Federal bail provisions are for the most part governed by the Bail Reform Act of 1966 and the only issue that may be considered by the judge in making a bail decision is the likelihood that the accused will appear for trial if released. Although an accused seeking release on bail may pose a significant risk to the safety of the community, the courts may not deny bail on that basis. This bill will correct this deficiency.

I have seen several studies regarding crimes committed by persons out on bail. Some of these figures struck me as good evidence that our policy regarding bail must be changed. One study showed that 70 percent of those persons arrested for robbery were rearrested while on bail; 65 percent of those released after an arrest for auto theft were taken into custody for another auto theft while out on bail. Another study disclosed that 28 percent of the murders, 19 percent of the rapes, 31 percent of the robberies and 32 percent of the burglaries and 11 percent of the assaults were committed by persons free on some form of conditional release. Another study disclosed that for a defendant with a previous record of two or more prior arrests the chance of rearrest before trial was twice as great as for those with one or no previous arrests. While all of the studies do not agree as to the exact percentage, it is clear that the number of crimes committed by persons out on bail is staggering.

These studies indicate the need for changing the standard for pretrial release and detention so that judges can openly consider the possible threat a suspect poses to community safely. These examples lead me to believe that the freedom bail provides should not be for sale at any price for career criminals.

Title I of S. 1762 also contains another important bail provision. It is the presumption that a particular individual is a danger to the community if he committed a serious drug trafficking offense or used a firearm during the commission of a violent crime.

Title II of this bill addresses sentencing and parole. There is widespread agreement that the present Federal approach to sentencing is outmoded and unfair to both the public and persons convicted. It is based on an outmoded rehabilitation model in which the judge is supposed to set the maximum term of imprisonment and the Parole Commission is to determine when to release the prisoner because he is rehabilitated. Federal judges now have essentially unlimited and unguided discretion in imposing sentences. As a result, offenders with similar backgrounds who commit similar crimes often receive very different sentences in the Federal courts. Some defendants receive sentences that may be too lenient for the proper protection of the public and others may be given sentences that are unnecessarily harsh. Under the present sentencing structure, the length of time that a prisoner actually spends in prison is determined by the U.S. Parole Commission.

The sentencing provision of this bill creates a sentencing commission within the judicial branch that is directed to establish sentencing guidelines. They will recommend to the sentencing judge an appropriate kind and range of sentence for a given category of offense committed by a given category of offender. In addition, sentences are fully determinate. The sentence imposed by the judge is the sentence that will actually be served subject only to modest good time credits. The bill provides a truth-in-sentencing package that will inform both the public and the offenders of the real penalty being imposed on each defendant.

I see this title as also addressing the career criminal problem. With stiffer mandatory sentences we will be locking up for a longer period of time the worst criminals. These defendants commit on an average 10 crimes for every one on which they are convicted. If we put away 10,000 career criminals we can prevent 100,000 crimes.

Title III is designed to take the profit out of organized crime, especially drug trafficking. The bill enhances the use of forfeiture, and in particular the sanction of criminal forfeiture, as a law enforcement tool in combatting two of the most serious crime problems facing the country—racketeering and drug trafficking. The bill provides for the forefeiture of a criminal's cars, boats, and airplanes that he used in his illegal business as well as the profits. The bill also provides that where property found to be the subject of forfeiture is no longer available at the time of conviction, the court is authorized to order the defendant to forfeit substitute assets of equivalent value.

This bill also provided for surplus property to be donated to States for construction and modernization of criminal justice facilities.

Title IV of the bill addresses the insanity defense. Should an accused bear the burden of proving himself insane, or should the prosecution bear the burden of proving his sanity? Who is the better expert on a defendant's competence to stand trial, a psychiatrist or a lawyer? What should psychiatrists be allowed to say to juries? How many experts should be allowed to rebut and refut the opposing experts? These are the questions that fuel the intellectual debate on reforming the insanity defense.

These questions, however, have litle impact on the public's views. The public believes that too many murderers are using the insanity plea to avoid jail. A vast majority believe that the defense should be banned altogether in murder cases. The public perceives the insanity defense as an easy route by which defendants in grisly murders, attempts on the lives of national leaders and bizarre sex crimes can hope to avoid punishment. The insanity defense is eating at the American people like a cancer. Congress has the responsibility to do surgery and to effectively cut out the abuse of the insanity defense.

Under present law the insanity defense is based upon the American Law Institute Test. According to this model:

> A person is not responsible for criminal conduct if at the time such conduct, as a result of a mental disease or defect he lacks substantial capacity to understand the wrongfullness of his conduct or to conform to the requirements of the law.

This test is based on knowing right from wrong or possessing an irresistable impulse or lacking substantial capacity. This test invites the presentation of massive amounts of conflicting and irrelevant evidence by psychiatric experts.

The defense has been denounced as a rich man's defense. The defense has also been criticized by legal scholars, bar association representatives, and psychiatrists as time consuming, confusing and expensive. Recent memory brings to mind the John W. Hinckley, Jr. trial. It has been estimated to have cost the Government and Hinckley's parents more than $3 million. The extensive role played by no less than nine psychiatrists made the case one of the most expensive prosecutions in the history of the insanity defense. The Government spent $300,000 on three private psychiatrists and one psychologist. Hinckley's defense also employed a team of six. The bill for their services was around $200,000. Two $57,000 per year, assistant U.S. attorneys spent full time preparing the case for trial. The main item challenging their legal skills was the insanity issue. The costs associated with the jury exceeded $40,000, and the transcript of all this expert testimony was price tagged at $70,000. It is obvious that this trial was time consuming, confusing, and expensive.

Another problem with the insanity defense as it is presently written is that the decision on who gets an insanity acquittal has more to do with the state of mind of the jury than the state of mind of the accused. This is because the present test requires the jury to determine the motive. That is a difficult and unpredictable task.

States have made the first move to bring some consistency and predictability to the insanity defense. Michigan, Georgia, Illinois, and Indiana have adopted a guilty but mentally ill verdict. More than half of the remaining States' legislatures are considering

the same approach. Montana and Idaho went even further and have effectively eliminated the separate defense of insanity.

The bill provides that a person could be found not guilty by reason of insanity only if, as a result of mental disease or defect he was unable to appreciate the nature and quality of the wrongfulness of his acts.

The new test would eliminate reference to knowing right from wrong and having irresistible impulses or lacking substantial capacity to conform with the law. It is a more stringent test. It will also make the outcome more reliable.

The bill also shifts the burden to prove the defense to the defendant claiming it. The practical ramifications of this stricter test is to protect the community. A mental disease or defect would be no defense if a defendant acted out of an irrational or insane belief that his act was morally justified because the victim was an evil man whose death would end injustice, but just recompense for past wrongs or lead to a social utopia. Reforming the insanity defense will help correct those inequities which have ebbed the confidence of the American people in our Nation's system of justice.

As I mentioned, this bill contains 12 titles, each representing a significant and unnecessary reform in our judicial system. I believe the combination of these various provisions is a coherent approach to strengthening the frame work for criminal justice. Today we will pass the crime bill, S. 1762. It is the product of more than a decade of effort to improve the criminal code. I want to commend Senator THURMOND and his committee for the hard work on this vital issue.

Thank you, Mr. President.

● Mr. SIMPSON. Mr. President, today we continue to debate a problem which may be one of the most important issues the Senate addresses this session. Surely, the American people view it as such. Crime—the most pervasive common negative factor we as citizens of the United States face each day of our lives.

The Federal Bureau of Investigation reported that in 1982—the last full year for which statistics were available—21,012 persons were murdered in the United States. That is a grim average of one murder every 25 minutes. Reported rapes totaled 77,763. The FBI reports that there is one violent crime being committed every 25 seconds and one crime against property being carried out every 3 seconds.

The crime rate is a frightening one, and it has become a major concern to persons in all walks of life and in every geographic area of our Nation—and because of that concern, I am very pleased that all of the members of the Senate Judiciary Committee have joined together to support S. 1762 in a bipartisan manner—which is an action becoming increasingly characteristic of this body when dealing with such important national problems. In that regard, I would wish to commend all of the members of the Senate Judiciary Committee, and in particular my fine friend and mentor Senators THURMOND, PAUL LAXALT, JOE BIDEN, and TED KENNEDY for the fine, conscientious efforts put forth in the furtherance of this vital measure which now gives the Federal Government the proper tools needed to be effective in its crime fighting role. I urge passage of this legislation as swiftly as is possible.●

● Mr. INOUYE. Mr. President, I would like to call the attention of the Senate to a particular provision of S. 1762 which I fear may result in instances of injustice.

Section 4243 of this bill provides that a defendant who is acquitted by reason of insanity and subsequently committed to an institution will not be released until the facility's administrator determines that he is no longer mentally ill or dangerous. In the alternative, the defendant could gain his release by proving that he is no longer mentally ill or dangerous. This standard is substantially more difficult to satisfy than that which applies to noncriminal mental commitments who must be released unless the State can periodically demonstrate the need for continued confinement on the basis of mental illness or dangerousness.

It is argued that the difference between the standards is justified by the fact that an insanity acquittee has been demonstrated to have committed a criminal act and found by a court to be insane. The fact of demonstrated criminality is said to magnify the public's interest in confinement. And the judicial finding of insanity at the time of the criminal act is said to diminish the acquittee's right to have Government continually demonstrate the need for institutionalization. This argument has, in fact, been apparently constitutionally validated by the Supreme Court in the recent case of Jones against United States. And while I believe it remains subject to disagreement, it is a rationale which Congress might reasonably adopt in this matter.

What I find disturbing, however, is that the stricter criminal standard for release is apparently to be applied for an indefinite period regardless of the nature of the crime an acquittee is alleged to have committed. A misdemeanant or class C felon is thus potentially subject to a life sentence as a criminally insane person. This potential consequence was also validated in the Jones decision. But constitutional sufficiency does not necessarily insure the wisdom of a law. Rather, it assures only that the minimal requirements of fundamental fairness are satisfied in the minds of, in this case, five of the Justices of the Court.

Mr. President, the very existence of the insanity defense is based on our belief in the principle that it is wrong to punish those who are not responsible for their actions. This bill and other alternative formulations attempt to implement this principle in a fashion that will not permit abuse or unreasonably endanger society. But I cannot help but believe that uniform indefinite life sentence as a criminal acquittee, albeit to a mental institution, constitutes punishment and reflects the community's fear of mental illness more than it serves to insure treatment.

If a person is actually convicted of a crime, unless a life sentence is imposed, he is insured by the existence of a maximum sentence that there will come a time when society's deprivation of his liberty as a result of his criminal conduct will come to an end. Under this bill, the insanity acquittees are provided with no such assurances. I believe that this constitutes nothing less than a sanction for having utilized the defense and, therefore, is contrary to the nature and purpose of the defense.

If a criminal act is to trigger a stricter release standard, Mr. President, I believe that fairness dictates that the application of this standard not exceed the maximum term of imprisonment for the crime he was alleged to have committed. The legal consequences of a crime simply should not extend further for one found not guilty than it might for one found guilty. This would, of course, have little effect for the more serious crimes. But it would assure that the criminal authority of the Federal Government does not extend for an unreasonable time over those who have committed minor infringements.

It is not my intention to seek this change in the bill at this late date; however, whether or not this particular measure becomes law, I will attempt to insure that the Judiciary Committee reexamines this matter. The fine and difficult work they have done to date on this measure is, of course, to be commended and I trust, and will attempt to insure, that this concern will be substantively addressed when it returns to this issue.

I would also like to take this opportunity to further commend the committee on its decision to include psychologists as among the mental health professionals qualified to perform court-ordered evaluations. I am convinced that this measure will not only reduce costs at no loss of quality, but that it will assure judicial access to many more qualified examiners.●

FEDERAL IDENTIFICATION SYSTEMS

Mr. DOLE. Mr. President, I had an amendment to the Federal Criminal Code to move toward the positive identification of persons holding identification documents. This proposal is intended to serve as as interim measure to begin to deal with the confusion, conflict, and redundancy which now exists in the various Federal identification systems.

The May 12, 1983, report of the Senate Permanent Subcommittee on Investigations dealing with Federal identification fraud underscores the tremendous need for reforms in the current system. The report shows that this fraud is costing the taxpayers, throught various Federal, State, and local agencies, in excess of $24 billion annually. Illegal aliens have easy access to identification documents such as social security cards, birth certificates, and drivers licenses. At present, more that 7,000 agencies using more than 21,000 different formats issue original or duplicate birth certificates. These certificates are then used to obtain drivers licenses, passports, social security cards, food stamp identification cards, and innumerable additional documents. These documents then enable fraud artists to collect unemployment benefits, food stamps, tax refunds, student loans, and other Government benefits. The problem is serious and its magnitude expands with each passing year.

This amendment would amend the False Identification Crime Control Act of 1982 (Public Law 97-398). This act added new penalties to the Federal Criminal Code for certain false identification related crimes. The amendment would add new provisions to the law with the following features:

Agencies maintaining identification systems would be encouraged to use common descriptive terms for personal identification information;

A Federal policy would be established to reduce redundancy and duplication in these identification systems;

The systems would be redesigned to encourage "positive identification" of holders of identification documents;

The President, within 3 years, would have to report to Congress and make recommendations for comprehensive legislation in the area. Among other things, the recommendations must give due consideration to the protection of privacy and the development of appropriate sanctions for misuse of identification information.

In the 97th Congress, legislation was enacted in three diverse areas which suggest some of the dimensions of the problem: First, drunk driving legislation last year authorized the establishment in four States of pilot programs to develop an automated national drivers registry. This will be a system within the Department of Transportation which will contain information contributed from several States on bad drivers. Included would be information concerning persons whose licenses have been revoked for drunk driving convictions. The drivers license system has been subject to abuse by those whose licenses have been revoked due to the lack of such coordination. These drivers can simply apply for another license under an assumed name or in another State where their previous record is unknown.

Second, last year the Congress passed the Missing Children Act (Public Law 97-272). This legislation authorized expansions of the FBI's National Crime Information Center, to include information contributed from either State or local criminal justice agencies or concerned parents of missing children. Very few children have been fingerprinted. While it is true that in many jurisdictions, a baby's footprint is taken at the time the birth certificate is issued, these prints are seldom used subsequently for indentification purposes. This lack of documentation makes it difficult to establish the positive identity of a child when a missing report is filed with law enforcement officials.

Third, in the 1982 amendments to the food stamp legislation Congress authorized the development of automated systems for the dispensing of food stamps. Currently, almost $11 billion of this Federal assistance is received by approximately 20 million people. In his recent state of the Union address, President Reagan estimated that over $1 billion of this assistance was wasted through fraud, ineligibility, or other misuse of the system. At the center of the problem is the fact that current methods of dispensing food stamps do not require positive identification of recipients, thus opening the door for abuse of the system.

In this Congress, the Senate recently passed S. 529, a bill to comprehensively revise our immigration laws. Included in this bill is a provision which directs the President to develop a secure system within a 3-year period for the identification of those persons lawfully admitted to and entitled to work in the United States as well as those citizens of the United States who would be employed by companies having four or more employees. Criminal sanctions would be imposed on employers who knowingly hire persons not lawfully able to work in the United States.

The recent legislation and pending proposals have a common thread: They involve forms of Federal identification that already extend to tens of mfflions of our citizens. To say the least, concerted action needs to be taken to reduce duplication and redundancy, to protect the privacy of persons who are subjects of these files, to develop sanctions for unauthorized use of disclosure of the information contained in them, and to provide for coordination of interested Federal, State, and local agencies and authorities who have legitimate uses for this information.

The problem lies in the inability to establish positive identification in the current system. Agencies such as the Social Security Administration, the Internal Revenue Service, the Immigration and Naturalization Service and the State Department as well as State and local agencies need to develop better programs to uncover fraud. The Subcommittee on Investigations listed in its report several projects in which agencies cooperated and were successful in tracking down fraud schemes. However, these projects were limited in scope. If we are to stop this unnecessary waste and criminal activity, it must become a nationwide cooperative effort.

HEARINGS

The Subcommittee on Courts of the Senate Judiciary Committee, which I Chair, has recently held three hearings on S. 1706 and to gather information and focus attention on the abuses of identification documents. Testifying at our July 29, 1983, hearing were Mr. Gary McAlvey, from the Bureau of Identification of the Illinois Department of Law Enforcement; Mr. Robert Leard, Administrator of the USDA's Food and Nutrition Service; Mr. Louis Enoff, Acting Deputy Commissioner of the Social Security Administration's Programs and Policy Division; Mr. Clayton Hatch, Director of the Transportation Department's National Driver Register; Mr. Donald Blevins, Deputy Assistant Secretary of Passport Services from the Department of State; Col. Michael Gilmartin, Director of Personnel from the Department of Defense; and a panel of witnesses from the Department of Treasury which included Mr. David Ray and Mr. Neal Pindley from the Secret Service, Mr. James Owens, Deputy Commissioner of the Internal Revenue Service and Mr. John Hurley from the U.S. Customs Service.

On October 5, 1983, witnesses were Mr. John Walker, Jr., Assistant Secretary for Enforcement and Operation's from the Department of Treasury; Mr. Donald Blevins, from the Department of State; Mr. Steven Schlesinger, Director of the Bureau of Justice Statistics and Prof. Joseph Eaton from the University of Pittsburgh.

At the last hearing held on October 21, we received testimony from Inspector Conrad Banner, Deputy Assistant Director of the FBI's Identification Division, Mr. David Nemecek, Section Chief of the FBI's National Crime Information Center and Mr. Roger P. Brandemeuhl, Acting Associate Commissioner, from the U.S. Immigration and Naturalization Service.

CRIMINAL JUSTICE IDENTIFICATION SYSTEMS

After 15 years of effort between Federal, State, and local enforcement agencies, a high degree of interface and cooperation has been achieved between them on standardization of identification information and formats. Testimony received from Search Group, Inc. and the FBI amply demonstrated that operational systems can be developed under enabling legislation which provides safeguards against invasion of privacy and provide sanctions for misuse or unauthorized disclosure of sensitive information. This experience can well be applicable to other noncriminal justice identification systems.

Mr. President, as I said at the outset, S. 1706 and my amendment were designed to be interim measures. The

President would be given 3 years to undertake a comprehensive review of the status of Federal identification systems and then send recommendations to Congress for comprehensive legislation. Although repeated requests have been made by letter and in the course of the hearings, so far the administration has yet to take a position on the bill. It may well be that comments will be received at a later time. If so, changes and modifications can be made as appropriate. In view of the magnitude of the problem and the billions of dollars of Federal funds involved, the first steps to deal with the problem should not be delayed any longer. As the Roth report pointed out, the Justice Department conducted a comprehensive study of identification fraud in the mid-1970's. If anything, the problems have grown much worse in the intervening years.

Some will say that this measure will lead to a national identification system and pave the way for big brother in Orwellian fashion to control our lives in every detail. Indeed there are very important considerations of privacy and security which must be addressed in the context of this legislation. But if current identification systems are allowed—by default—to develop, automate and expand as they are now, the situation can be much worse than if a coordinated, logical policy is developed. This amendment encourages decentralization and separate, but coordinated development of the major systems, not Federal preemption and consolidation.

Testimony received from several agencies including the Departments of Defense, Agriculture, and Justice have amply demonstrated that vast sums are being spent on automation, yet with very little coordination and interface. Although it is possible that the administration could come back to Congress with a recommendation for a national system, this is only one of several options. If the experience of the criminal justice community is examined, it will become readily apparent that existing Federal and State and local systems can be upgraded, automated and interfaced without resort to a national system. Whatever might be recommended 3 years hence, Congress must still make the policy determination as to what would be needed.

Mr. President, in conclusion I thank the floor managers of S. 1762 for their cooperation and support for the measure.

WITNESS SECURITY

Mr. BAUCUS. Mr. President, the General Accounting Office, at my request, completed a study on March 17, 1983, of the witness security program. I had an amendment that corrects a deficiency in the program that was discussed in the GAO report.

As I am sure my colleagues know, through the witness security program the Federal Government provides individuals with new identities and relocates them because their lives have been endangered as a result of their testimony in Federal and State prosecutions. As a result of this program, the Government has successfully prosecuted and convicted many criminals.

However, this program is not without problems. Protected witnesses have committed criminal acts after being admitted to the program and have used their Government-created identities to avoid legal obligations.

GAO's most recent review of this program found that during one 6-month period, various creditors were seeking to recover over $7.3 million from 36 relocated witnesses. Included among the creditors were doctors seeking to recover money for services rendered, nonrelocated parents seeking to collect child support, a women seeking to recover a personal loan, a State brokerage firm seeking to recover money from a former employee, and Government agencies seeking to recover unpaid criminal fines and unpaid taxes.

When problems with creditors or nonrelocated parents occur, the Department of Justice faces a dilemma. Should it continue to conceal a witness' new identity to a third party and thus potentially endanger the safety of the witness?

In the past, the Justice Department had a blanket policy of not disclosing information on protected witnesses to assist third parties. In April 1982, an internal memorandum was issued which changed this policy. The Justice Department says it will now consider disclosure on a case-by-case basis. The GAO complimented the Department of Justice for its initiative, but believed that additional safeguards were needed to protect society from the unscrupulous actions of some witnesses. I agree with GAO's findings.

My amendment establishes a procedure by which an individual with a judicial order or judgement may petition a Federal court for the appointment of a special master to enforce his or her rights against the protected witness. The special master, under the direction of the Federal district court judge where the judgment holder resides, will be furnished the new name and location of the protected witness in order to enforce the rights of the judgment holder. This procedure assures that the identity of the protected witness is not publicly disclosed while providing an opportunity to an individual with a legitimate order or judgment to have it enforced. The costs of this program are apportioned between the judgment holder and the protected witness.

Mr. President, I am sure that all of my colleagues agree that we need to do all we can to fight crime. The witness security program is an important tool in the Federal fight against crime. This amendment would allow the continued use of the program without sacrificing the rights of innocent third parties who have had dealings with protected witnesses.

Mr. LEAHY. Mr. President, part B of title X is designed to criminalize the offense of solicitation to commit a Federal crime of violence. The proposed amendment is designed to avoid any possible concern that such an offense might impinge on constitutionally protected speech, petition, and assembly rights under the first amendment.

Criminal solicitation is an inchoate offense which is primarily designed to be invoked when the person solicited does not engage in the solicited criminal conduct. Unlike the inchoate offenses of conspiracy and attempt, the criminal solicitation offense contains no requirement that any act be taken in furtherance of the crime. Thus, the essence of solicitation is to criminalize the attempt to induce another to commit a crime through the utterance of mere words.

Over the past several Congresses, the Judiciary Committee has grappled with the problem that any criminal solicitation statute will often intersect with the first amendment. The committee has considered a general criminal solicitation statute both in the context of criminal code reform as well as omnibus crime legislation. In considering these proposals to create a criminal solicitation statute, the committee has often noted the difficult problem of distinguishing constitutionally protected speech in the form of mere advocacy from advocacy directed to inciting or producing imminent lawless action under circumstances likely to incite or produce such action. To guard against proscribing constitutionally protected advocacy, the committee during its deliberations on the criminal code reform limited application of the solicitation offense to a list of 33 egregious felonies.[1] In a similar spirit, the committee limited the solicitation offense in S. 1762 to "crimes of violence." However, the definition of the term "crime of violence" was designed to encompass all of the uses of the term in title 18, United States Code, and was not specifically tailored to the crime of solicitation.

To guard against infringement of first amendment rights and to respond to suggestions that the solicitation offense as currently defined in S. 1762 would present the potential for abuse, the proposed amendment limits section 1003 to "felonies that have as an element the use, attempted use, or threatened use of physical force against the person or property of another." This narrower definition is consistent with the recommendations of the final report of the National Commission on Reform of Federal Criminal Laws.

[1] S. 1722, 96th Cong., 1st sess. (1979), as reported by the Judiciary Committee.

Mr. DENTON. Mr. President, I had an amendment to sectin 219 of title 18, United States Code, substitutes the words "Public Official" for "Officer or employee" of The executive legislative, or judicial branch of Government.

In my view, this is a long overdue clarifying amendment. After nearly 4 years of hearings, the Congress passed refinement to the Foreign Agents Registration Act. These amendments to this 1938 statute became effective in 1966.

One of the amendments was a new provision in the law which effectively precluded most Federal Government officials from violating their oaths of office by representing the interest of any undisclosed foreign principal. In so doing, the Congress by omission, probably due to oversight, failed to specifically include itself among the elected and appointed officials barred from such activity.

Mr. President, in the past 8 years, scandals involving Members of Congress and foreign governments have resulted in substantial embarrassment to this institution. I believe it would be extremely useful to clarify the proscription against such activity by using a term, the meaning of which is spelled out in the bribery statute 18 U.S.C. 201, Adoption of this amendment and thereby the term "public official" in lieu of "Officer or employee" will serve to state unequivocally that we in Congress are no more entitled to escape the provisions of the conflict-of-interest law than anyone else who has taken the solemn oath of office.

This amendment would demonstrate to the public at large that we are not above the law.

Mr. DURENBERGER. Mr. President, I rise today to speak in favor of S. 1762, the Comprehensive Crime Control Act. I commend my colleagues on the Judiciary Committee for the fine job they have done in creating a tough but fair crime control package.

I am particularly pleased that the sentencing provisions of title II were included in the bill. Minnesota has been a pioneer in implementing this type of sentencing structure. Minnesota's unique system developed by legislative mandate has resulted in sentencing guidelines which have controlled the growth of the State's prison population and made the imposition of sentences much more fair and equitable. I am proud that Minnesota sentencing law was the model for the Federal sentencing reforms, and I have long advocated these changes on the Federal level. As Senator Kennedy, who has been a leader on restructuring the Federal sentencing laws, said earlier Minnesota has had extraordinary success. In the last two Congresses I have cosponsored the legislation upon which title II is based. It is time wse put certainty and fairness back into our sentencing system.

Certainty is needed to send criminals a clear signal that if they break the law, punishment will result. I believe that a determinate sentencing structure such as we adopt today will send that clear signal. It is the most effective type of sentencing structure possible to deter criminal acts.

Fairness is needed to remove the disparity in sentences which courts impose on similarly situated defendants. This occurs in sentences handed down by judges in the same district and by judges from different districts and circuits in the Federal system. One judge may impose a relatively long prison term to rehabilitate or incapacitate the offender. Another judge, under similar circumstances may sentence the defendant to a shorter prison term simply to punish him, or the judge may opt for the imposition of a term of probation in order to rehabilitate him.

For example, in 1974, the average Federal sentence for bank robbery was 11 years, but in the northern district of Illinois it was only 5½ years. Further probative evidence may be derived from another 1974 study in which 50 Federal district court judges from the second circuit were given 20 identical files drawn from actual cases and were asked to indicate what sentence they would impose on each defendant. The variations in the judges' proposed sentences in each case were astounding. In one extortion case, for example, the range of sentences varied from 20 years' imprisonment and a $64,000 fine to 3 years' imprisonment and no fine.

Under the provisions of this bill, for the first time, Federal law will assure that the Federal criminal justice system will adhere to a consistent sentencing philosophy, which along with sentencing guidelines will result in fairer and more consistent treatment in the imposition of sentences.

Again, I applaud my colleagues for their efforts on this bill, and I urge its passage.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. If there is a measure or quotient of frustration, Mr. President, it would be near the top right now because we have tried very hard to get this situation in shape so we can vote this afternoon, and I still hope we can. I am referring to the Metzenbaum/Bumpers amendments. But it would appear, Mr. President, that for the next few minutes I am stymied.

I am loathe to fritter away this time. Therefore, I have consulted with the minority leader about going to another matter; that is, the so-called Christopher Columbus bill, which will require a rollcall vote.

I have not yet been able to reach the managers of the bill on this side. I am authorized to say on behalf of the minority leader that there is no objection to proceeding to the consideration of this matter and the underlying budget waiver, I assume, and in a moment I intend to do that:

I should also say to Senators, however, that after we do Christopher Columbus, we are going to come back to this crime package. Today is Wednesday. By this time we were supposed to be well into the collateral and ancillary bills that are to accompany this measure. So we may be around a little while.

Mr. President, first I ask that the Chair lay before the Senate the budget waiver to accompany Calendar Order No. 316, S. 500.

Mr. President, there is a unanimous-consent agreement pending and we are on another matter, and I do not want it to go back on the calendar.

First of all, I withdraw the unanimous-consent request.

The PRESIDING OFFICER. The request is withdrawn.

Mr. BAKER. Now, Mr. President, I ask unanimous consent that the pending measure be temporarily laid aside to recur after the disposition of the matter I am about to address.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

BUDGET ACT WAIVER

Mr. BAKER. Mr. President, I ask the Chair lay before the Senate Calendar Order No. 387, Senate Resolution 189, the budget waiver to accompany S. 500.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The resolution will be stated.

The assistant legislative clerk read as follows:

A Senate resolution (S. Res. 189) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 500.

The PRESIDING OFFICER. The question is on agreeing to the budget resolution waiver.

The resolution (S. Res. 189) was agreed to as follows:

S. RES. 189

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to consideration of S. 500. Such waiver is necessary because S. 500, as reported, authorizes the enactment of new budget authority which would first become available in fiscal year 1984, and such bill was not reported on or before May 15, 1983, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

The budget waiver will allow Senate consideration of S. 500 which provides for the establishment of a thirty member Commission, plus a nonvoting participant from Spain and a nonvoting participant from Italy, to plan, encourage, coordinate, and conduct the commemoration of the quincentennial of the voyages of Christopher Columbus.

S. 500 authorizes the appropriation of an estimated $220,000 for fiscal year 1984 and $220,000 for each of the fiscal years beginning on October 1, 1984, and ending before October 1, 1992, and $20,000 for the period from October 1, 1992, through November 15,

1992, resulting in a total appropriation of $2,000,000.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT

Mr. BAKER. Mr. President, since the budget waiver has been accomplished, I am prepared to ask the Senate to go to S. 500. Before I do, I want to propound a unanimous-consent request that I understand has been cleared all around.

Mr. President, I ask unanimous consent that when the Senate proceeds to the consideration of Calendar Order No. 316, S. 500, only one amendment will be in order and that is an amendment by the distinguished Senator from Maryland (Mr. MATHIAS), which amendment is at the desk.

I further ask unanimous consent that there be a limitation on debate of 40 minutes, equally divided, on the bill as amended, to include the debate on the amendment which will be in order.

I further ask unanimous consent that after the adoption of the amendment, it be in order to proceed to the consideration of the companion House bill, H.R. 1492, Calendar No. 256, and that only one amendment be in order, and that is an amendment to strike all after the enacting clause and insert in lieu thereof the text of S. 500 as amended, if amended, and that no debate be in order on that motion.

Mr. President, I ask that the control of the time be in the usual form.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

CHRISTOPHER COLUMBUS QUINCENTENARY JUBILEE ACT

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate Calendar No. 316, S. 500.

The PRESIDING OFFICER. The bill will be stated by title.

The assistance legislative clerk read as follows:

A bill (S. 500) entitled the "Christopher Columbus Quincentenary Jubilee Act."

The Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause and insert.

That this Act may be cited as the "Christopher Columbus Quincentenary Jubilee Act".

FINDINGS AND DECLARATIONS

SEC. 2. The Congress finds and declares that—

(1) October 12, 1992, marks the five hundredth anniversary of the voyages of discovery of Christopher Columbus;

(2) the governments and people of Spain and Italy should be recognized and commended for their historic role and contribution to those voyages;

(3) all persons in this country should look with pride on the achievements and contributions of their ancestors with respect to those historic voyages; and

(4) as the Nation approaches the quincentennial of the voyages of discovery of Christopher Columbus, it is appropriate to celebrate and commemorate this anniversary through local, national, and international observances and activities planned, encouraged, coordinated, and conducted by a national commission representative of appropriate individuals and public and private authorities and organizations.

ESTABLISHMENT; COMPOSITION

SEC. 3. (a) There is established a commission to be known as the Christopher Columbus Quincentenary Jubilee Commission (hereinafter in this Act referred to as the "Commission") to plan, encourage, coordinate, and conduct the commemoration of the voyages of discovery of Christopher Columbus.

(b) The Commission shall be composed of thirty members as follows:

(1) seven members appointed by the President upon the recommendation of the majority leader of the Senate in consultation with the minority leader of the Senate;

(2) seven members appointed by the President upon the recommendation of the Speaker of the House of Representatives in consultation with the minority leader of the House of Representatives;

(3) ten members appointed by the President, which members shall be broadly representative of the people of the United States, and not otherwise officers or employees of the United States;

(4) the Secretary of State;

(5) the Archivist of the United States;

(6) The Librarian of Congress;

(7) the Secretary of the Smithsonian Institution;

(8) the Chairman of the Federal Council on the Arts and Humanities; and

(9) the Secretary of Commerce.

(c) The President is hereby authorized and requested to invite the governments of Spain and Italy each to appoint, before October 1, 1983, one individual to serve as a nonvoting participant in the activities of the Commission.

(d) The Secretary of State shall call the first meeting for the purposes of electing a Chairman and Vice Chairman, both of whom shall be from among the members of the Commission appointed under subsection (b)(3). The Commission may appoint honorary members, and may establish an Advisory Council to assist the Commission in its work.

(e) Appointments under subsection (b) shall be made within a reasonable time after the date of the enactment of this Act, but not later than October 1, 1983. Vacancies shall be filled in the same manner in which the original appointments were made.

DUTIES

SEC. 4. (a) It shall be the duty of the Commission to prepare a comprehensive program for commemorating the quincentennial of the voyages of discovery of Christopher Columbus, and to plan, encourage, coordinate, and conduct observances and activities commemorating the historic events associated with those voyages. In carrying out this subsection, the Commission shall particularly examine the historic role of the government and people of Spain in order to promote a greater public awareness, understanding, and appreciation of the contributions made by Spain with respect to those voyages.

(b) Not later than October 1, 1985, the Commission shall submit to Congress a comprehensive report incorporating its recommendations for the commemoration of the quincentennial of the voyages of discovery of Christopher Columbus. The report required by this subsection shall include—

(1) recommendations for appropriate activities for the commemoration, including—

(A) the production, publication, and distribution of books, pamphlets, films, and other educational materials focusing on the history, culture, and political thought of the lands Christopher Columbus traveled from and to during the voyages of discovery;

(B) bibliographical and documentary projects and publications;

(C) conferences, convocations, lectures, seminars, and other similar programs;

(D) the development of libraries, museums, and exhibits, including mobile exhibits;

(E) ceremonies and celebrations commemorating specific events;

(F) programs focusing on the international significance of the voyages of discovery of Christopher Columbus; and

(G) the design, inscriptions, and other specifications relating to the issuance of commemorative coins, medals, and stamps, by the United States;

(2) recommendations for the allocation of financial and administrative responsibility among the public agencies and private organizations recommended for participation by the Commission; and

(3) recommendations for such legislation and administrative actions as the Commission deems necessary to carry out the commemoration of the voyages of discovery.

The President shall transmit the Commission's report to the Congress together with such comments and additional recommendations for legislation and administrative actions as the President deems appropriate.

(c) The Commission shall prepare and submit to the Congress an annual report on the activities of the Commission, including an accounting of funds received and expended.

(d) In preparing its plans and programs, the Commission shall consider any related plans and programs developed by State and local, and foreign governments, and private groups, including the 1992 World's Fair to be held in Chicago, Illinois, and in Seville, Spain. The Commission shall endeavor to plan and conduct its activities in such manner as to ensure that activities conducted pursuant to this Act do not duplicate activities of the 1992 World's Fair.

(e) The Commission may designate special committees and invite representatives from such public agencies and private organizations to assist the Commission in carrying out this section as the Commission deems appropriate.

ADDITIONAL FUNCTIONS

SEC. 5. In carrying out the purposes of this Act, the Commission is authorized to provide for—

(1) the preparation, distribution, dissemination, exhibition, and sale of historical, commemorative, and informational materials and objects which will contribute to public awareness of, and interest in, the quincentennial, except that any commemorative coins, medals, or stamps issued by the United States shall be sold only by an agency of the United States;

(2) competitions, commissions, and awards for historical, scholarly, artistic, literary, musical, and other works, programs, and projects relating to the quincentennial; and

(3) a quincentennial calendar or register of programs and projects, and in other ways provide a central clearinghouse for information and coordination regarding dates,

Senators Would Ban Wick-Type Taping

The Senate was cruising smoothly toward passage of a crime bill yesterday when it was blind-sided by Sens. Howard M. Metzenbaum (D-Ohio) and Dale Bumpers (D-Ark.), who offered an amendment that would create a new crime.

They urged their colleagues to make it illegal for a federal employe to tape-record a telephone conversation without the permission of all parties.

As the Democrats proceeded to make exceedingly clear, the measure was aimed squarely at Charles Z. Wick, President Reagan's close friend and head of the U.S. Information Agency.

Wick recently admitted, after initially denying it, that he had secretly taped telephone conversations with a variety of callers, including administration officials.

Senate Republicans first asked Metzenbaum and Bumpers to withdraw their amendment, promising to hold hearings on the taping question in return.

But the Democrats refused to back off, and members of both parties said that the amendment may pass when it comes to a vote, possibly today.

The crime bill is a partial revision of the federal criminal code that, among other things, would give federal judges greater authority to deny bail to accused persons prior to trial and would create a federal commission to issue guidelines to make criminal sentences more uniform.

The bill also would reverse current law on the insanity defense.

Under the pending legislation, a defendant would have the burden of establishing he was not sane at the time of the crime.

Traditionally, the prosecution has borne the burden of proof on this and other key questions in a criminal trial.

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Some spending increases are always popular.

Last week the House, acting on an amendment by a Democratic freshman, all but eliminated a spending increase for a program to weatherize the homes of poor people.

But yesterday the House agreed, 357-39, to reauthorize and increase funding over the next four years for library services and construction. Among the amendments offered was one to emphasize the importance of rural library services, which passed, and another to give the president line-item veto power over the money, which did not.

The administration did not support the program, saying it is no longer needed because state and local governments should bear the

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responsibility for ensuring adequate local library services.

The Congressional Budget Office estimated the program would cost $684 million over the next five years.

But, "tell me, who's gonna vote against libraries?" one House aide asked.

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Along with the continuing debate about Lebanon, the House is scheduled to vote on another touchy foreign policy issue: tying military aid for El Salvador to human rights progress in that country.

Democratic leadership aides said yesterday that the bill requiring administration certification of human rights progress in El Salvador is scheduled to come to the House floor Monday or Tuesday.

They said that they anticipate no trouble getting the bill passed, since a similar one passed easily last year.

But they began a head count this week just to make sure.

Since 1981 Congress has required the White House to certify that El Salvador was making progress in human rights and land reform in order for that country to continue receiving military aid.

Last fall, Congress voted to extend the certification requirement.

But while Congress was on its Christmas vacation, President Reagan pocket-vetoed the extension.

Since then, Rep. Michael D. Barnes (D-Md.), chairman of the House Foreign Affairs subcommittee on Latin America, has introduced a bill to restore the certification requirement.

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It looks as if the House will quickly follow the Senate's lead in eliminating the congressional pay raise that took effect Jan. 1. That means the members' salary will be cut from $72,200 back to $69,800.

How hard do members work?

The House leadership has issued a schedule for daily sessions through May. It calls for the House to go into session at noon each Monday and Tuesday, at 3 p.m. on Wednesdays and 11 a.m. Thursdays.

The representatives will theoretically meet at 11 on Fridays, too, except that they almost never meet that day because so many members leave town Thursday night.

The leaders of both houses have also issued their regular calendars of "district work periods," as they like to call time back home. Congress will shut down five times before adjournment this fall.

The House calendar lists recesses for Lincoln's Birthday (Feb. 10 to 21), Easter (April 16 to 24), Memorial Day (May 25 to 30), Independence Day and the Democratic convention (July 2 to 23) and Labor Day and the Republican convention (Aug. 13 to Sept. 5). The Senate schedule is almost identical.

Both houses have set a "target date" of Oct. 4 for adjournment.

But many members say that they expect to be back for a lame-duck session in December.

—T.R. Reid and Margaret Shapiro